HOUSE OF LORDS MANUSCRIPTS.

VOLUME II.—(NEW SERIES.)

THE MANUSCRIPTS OF THE HOUSE OF LORDS, 1695—1697.

[*In continuation of the Volumes issued under the authority of the Historical Manuscripts Commission.*]

Ordered to be Printed, 19th March 1903.

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ABBREVIATIONS USED IN THE FOLLOWING CALENDAR.

MS. Min.—MS. books containing Minutes of the Proceedings in the House, and intituled "Journal."

Com. Book.—MS. books containing Minutes of the Proceedings of Select Committees.

Priv. Book.—MS. books containing Minutes of the Proceedings of the Committee for Privileges.

Joint Com. Book.—MS. books containing Minutes of the Proceedings of Joint Committees of Lords and Commons.

Long Cal.—MS. list of the Acts, both Public and Private, numbered consecutively for each regnal year, in the order in which they are kept in the Victoria Tower.

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INTRODUCTION.

The Manuscripts of the House of Lords, being no longer printed by the authority of the Historical Manuscripts Commission, will for the future appear as separate volumes, of which this is the second. For the sake of convenience, they will be printed in the same form as the volumes already issued by the Commission.

THIS Volume, which includes two Sessions, begins with the meeting of a new Parliament, the Prorogation on 3 May 1695 having been followed, after further Prorogations, by a Dissolution, proclaimed on 11 October, immediately on the arrival of the King, who returned to England shortly after the successful conclusion of his campaign in the reduction of Namur, which he attributed in a large measure to the courage and bravery of the English troops.

Both Houses of Parliament met on 22 November, and on the following day the King delivered his speech to them. He took notice of the difficulty caused by the "ill state" of the coin—"a matter of so general concern and so great importance" that he left it entirely to the consideration of Parliament—recommended them to pass some good Bill for the encouragement and increase of seamen, and to consider of such laws as might be proper for the advancement of trade, especially that of the East Indies, and expressed a wish that some way might be thought of to raise the necessary recruits during the war without giving occasion of complaint. In view of the late opening of the Session, he urged them to make all possible despatch of the "great business" before them, reminding them that the prolongation of the previous Session had been advantageous to the enemy, and that the French were already making great preparations for being early in the field in the coming year.

The Lords lost no time in proceeding to discuss the questions thus recommended to their consideration. On 3 December they went into Committee to consider the state of the nation in relation to trade, especially as to the Act for an East India Company passed in Scotland earlier in the year, on the following day they took into consideration the state of the coinage, and on 6 December they decided to present an address to the King for a list of the Navy and Army, and ordered the merchants to lay before the House an account of their losses at sea during the past year.

Of the subjects mentioned in the King's speech there was one which beyond all others demanded some immediate action, in order to remedy an "insupportable grievance," and this was the "ill state of the coin." There were two kinds of silver coins in circulation — one with a milled edge and the other without. Constant clipping of the latter had so diminished them that the value of guineas had risen to 28*s.* or 30*s.*, and the current silver was estimated to be worth little more than two-thirds of its nominal value. Bills to prevent clipping and coining had been frequently introduced and passed, and severe punishments were constantly inflicted upon offenders; but nothing could prevent these practices, and the depreciation of the silver coin went on from year to year. Projects for reforming the coinage had been from time to time discussed and rejected, probably for fear of the dislocation of trade which must inevitably attend the carrying out of any change; but it was now agreed to be imperative that some means of remedying so great an evil should be found, whatever the cost might be.

Early in 1695 Somers had proposed that a proclamation should be issued, announcing that, after a certain day, all silver should pass by weight; but this expedient had been laid aside, and Montague, who was now Chancellor of the Exchequer, had to devise some means of effecting a recoinage of the silver in circulation which would interfere as little as possible with the general trade of the country. The details of the scheme which he drew up in conjunction with Locke and Isaac Newton, and the difficulties with which he had to contend in carrying it out, may be gathered from the contemporary histories, where are fully set out the arguments used in Parliamentary debates for

and against recoinage by the Court party, the Country party, and the Jacobites.

The first step towards recoinage was taken by the Lords, who presented an address to the King praying him to issue a Proclamation, fixing a day after which clipped money should cease to be current coin; the Commons, though they did not join in that address, presented a similar one, and the Proclamation was accordingly issued. The question then was how to provide for the loss involved in recoining the clipped money. The Commons decided that it should be borne by the public, and that the money should be raised by a Window Tax, which would be less objectionable than a Hearth Tax, inasmuch as there would be no necessity for entering the houses. On 27 December the Commons sent up to the Lords a Bill, of which no copy is in existence, "for regulating the Coinage of the Silver Money" of the Kingdom. The Lords' Amendments to it, which appear in the Journals of the two Houses, extended its operation to all clipped money, suspended the coining and importation of gold coin, and allowed for a time the exportation of coin like other merchandise.

They did not insist upon these Amendments when the Commons disagreed to them; but they had also struck out part of a clause which provided for the erection of not less than four mints in various parts of the country, and, as they refused to give way on this point, the Bill was dropped in the Commons. At a conference which took place upon these Amendments the Commons protested against an alleged infringement of their privileges by the insertion in the Bill of clauses imposing pecuniary penalties, to which the Lords retorted that, as the Commons had delivered a bare assertion only, they would content themselves with as positive a denial of it. This protest, and the Commons' reasons for disagreeing to the Lords' Amendments, are now printed for the first time (No. **978**).

The first Coinage Bill having thus been lost, owing apparently to the apprehensions of the Lords that if more mints were erected the secret of milling might be divulged to the coiners of false money, the Commons set to work upon another one, and in a week's time they sent up a Bill "for remedying the ill state of the coin," which four days later received the Royal Assent.

Like the former Bill it contained a provision for the erection of at least four country mints, on discovering which the Lords appointed a Committee to inspect precedents and draw up a communication on the subject, which was to be delivered to the Commons at a conference, protesting against such an innovation in the procedure between the two Houses, but allowing it to pass for the present, in consideration of the importance of the Bill. The records of the proceedings of the Committee were however expunged from the MS. Minutes, and they do not appear in the Journals. It may, therefore, be assumed that the Lords came to one of two conclusions—either that the importance of the Bill warranted an unusual course of proceeding, or that their apprehensions about the mints were not so well-founded as to justify them in adhering to their objection.

The dislocation of trade in consequence of the calling in of the silver money turned out to be even more serious than the opponents of recoining had prophesied, and the "malcontents," as they were termed, were able to compel the Ministers to introduce a Bill to promote the bringing-in of milled, broad, or unclipped money, which might be exchanged for the clipped money, and to encourage persons to bring plate to the Mint to be coined. The Ministers endeavoured to carry an Instruction to the Committee on this Bill to consider the price of guineas. Though they failed in this at first, they eventually succeeded in getting it fixed by the Bill at 26*s*., which was further reduced in the Lords. They also prevailed upon the House of Commons to drop the first part of the Bill, which, in its final form, as passed by the Lords, fixed the price of guineas at 22*s*., and prohibited the use of plate in public-houses, the export of bullion, and the currency, after 4 May, of clipped money, leaving out all reference to the exchange of unclipped and clipped money. (*See* No. **1048**.) Another result of their efforts was the passing of a fourth Bill, which took off the obligation to coin guineas, and prevented the importation of gold coin; but this Act was repealed in the following Session. The only other measure relating to the coinage which comes into the Calendar is a Preventing of Counterfeiting Act passed in 1697 (No. **1155**); but two Acts were passed earlier in the same Session, one to induce the public to bring in the hammered money to be

recoined, and the other to encourage the bringing in of wrought plate to be coined, while a third Act imposed duties to meet the loss on recoinage.

A Session of Parliament at this period would hardly have been complete without an inquiry into Naval administration; and the two Sessions under consideration were no exception to this rule. In that of 1695-6 it was the insufficient protection afforded by His Majesty's ships to the mercantile marine that came under investigation. The papers (No. **959**) show how well-founded were the complaints made by the merchants. No less than 108 ships seem to have been actually taken by the French, while the loss of 25 more was indirectly caused by the failure of the Admiralty to provide convoys and cruisers. Some of these cases were attended by circumstances of special aggravation. Thus one vessel was carried off from an Irish harbour, where her owners may well have thought that she was safe, while another was rendered so defenceless by the impressment of almost the whole of her crew that she fell an easy prey to the first French privateer that attacked her. And the East India Company came to the Committee with a sad story. On 13 June, in view of the expected arrival before long of several of their ships, they made urgent application to the Admiralty for cruisers to be sent out to look after them. The Admiralty replied that they would do what they could; but a month later the Company learnt that the number of cruisers, instead of being increased, had been reduced. Early in August the Company, having received intelligence that the French Admiral, De Nesmond, was about to sail from Brest with a considerable force for the express purpose of intercepting their ships, renewed their application for more cruisers, but were met with the reply that the Admiralty could send out no more. The ships were now arriving. One was attacked by two French privateers, but made so good a defence that she was able to escape from them. Her captain reported that he met with no men-of-war till he arrived off Portland. Two others were taken by De Nesmond. A fourth was forced ashore by a privateer on the Irish coast. These occurrences, as news of them arrived, were reported to the Admiralty, who, however, held out no hope of any effectual steps being taken for the protection of the rest

of the expected shipping. The Company now, in their distress, petitioned the Lords Justices, by whom the Government was being carried on in the King's absence abroad; and on 14 September the Duke of Shrewsbury acquainted them that a squadron had been ordered to go as far as Ushant to look after their ships and oppose De Nesmond. But, notwithstanding this order and a further memorial from the Company to the Admiralty, three more ships were taken by the enemy 20 leagues off the coast of Ireland. The Company estimated their loss at 1,500,000*l.* Other bodies of merchants also suffered severely. Formidable lists were handed in by the Barbadoes Merchants and the African Company, the losses of the former being put down at 387,100*l.*, those of the latter at 199,540*l.*; and further lists were presented, showing an aggregate loss of 345,600*l.*

The answer made by the Admiralty to these complaints amounted to this—that they had not ships enough. They had done the best they could with those they had, but the Navy was not large enough for what was required of it. They gave a detailed account of the way in which they had disposed of the force at their command, and brought a counter-charge of rashness and foolhardiness against the masters of the merchantmen, accusing the merchants of trading during the war with almost the same freedom as in time of peace. In the month of September 74 cruisers had been employed out of a total of 176 available ships in His Majesty's service.

Incidentally they laid some of the blame on the Marquess of Carmarthen, whom they represented to have been dilatory in putting to sea, and slow in finding the squadron which he was to command. When he did eventually come in sight of it engaged in convoying a number of merchant ships, he took it for a French fleet, and ran into Milford Haven for shelter. Lord Carmarthen indignantly repelled the reflections passed upon him, and much of the Committee's time was devoted to an inquiry which could have been carried out more properly and efficiently by the Court-Martial which he had demanded; and not the time of the Committee only was thus taken up, but that of the Commissioners of the Admiralty also, as they complained with some bitterness. "The service suffers infinitely by our being

here," they said. "We are pressed every day in the year with business at the office; but we will attend when your Lordships command," as, indeed, they could not help doing. But their protest fell on deaf ears, for the next words written by the clerk are, "They are desired to be here again on Saturday." This expenditure of valuable time might, no doubt, have been avoided if the Commissioners had ordered a Court-Martial; but they held themselves to be incompetent to do that, in the case of a Flag Officer, without the King's command. The vessels composing Lord Carmarthen's squadron were, at the time when he was appointed to command them, cruising in the Soundings under Captain Cole. The Marquess, in the papers which he laid before the Committee, accounts for his delay in going on board his ship at Spithead, and describes the efforts which he made to find his squadron. He complains of the indignity put upon him, an Admiral, by his being sent in a single ship to look for his squadron. He explains the mistake which led to his taking shelter from his own ships in Milford Haven, and which was followed by his recall. No doubt these various circumstances were calculated to produce a prejudice in his mind against Captain Cole, which soon found vent in an open quarrel, the account of which given by Cole throws a curious light on the manners of the time, and justifies Macaulay's application to Carmarthen of the epithet "eccentric." The sympathies of the Committee were with Lord Carmarthen, whom they acquitted of all blame, while they expressed their opinion that Cole should be forthwith tried by a Court-Martial; but Ralph declares that the measures of the Government, "who had been more than ordinarily careful of our navigation," were rendered partly useless by the mistake committed by the admiral, who, when he took shelter in Milford Haven, "left the sea open to the enemy."

When Parliament reassembled in October 1696, after the prorogation, events had taken place which called for strict inquiry. The recall of the fleet engaged in the abortive Cadiz Expedition and the loss of Newfoundland were occurrences of a nature likely to arouse national indignation, and the House only reflected public sentiment when it set on foot an investigation, which, at any rate in its inception, promised not to lack thoroughness and vigour.

The Admiralty were called upon to furnish detailed accounts of the Navy, showing the number, condition, and stations of the King's ships; the Navy Board were required to give particulars of the stores; and Sir George Rooke was ordered to lay before the House copies of all orders, letters, and papers received by him relating to the conduct of the expedition. Certain questions were put to the Commissioners of the Admiralty, but their answers were deemed so unsatisfactory that a Select Committee was appointed to sift the matter more thoroughly. The efforts of the Committee, however, failed to elicit all the desired information. Individual Commissioners declined to speak in the name of the Board, always falling back on the demand that the questions should be put and answered in writing. The Board's reply to the all-important inquiry whether they considered the fleet to be "sufficient for the protection of England, Ireland, trade, and the plantations," had been evasive. "Not knowing," they said "the force of the enemy's fleet, nor where they may employ the same, we cannot give any opinion" as to the sufficiency of the English fleet. In vain the Committee pressed for a categorical reply. The Commissioners were too wary to commit themselves; but they were confident that the naval power of this country was much greater than it had ever been before. The complete list furnished by them shows a total of 277 ships, either at sea or preparing to put to sea, while 18 more were on the stocks. Nor were they at all content to submit without protest to the imputation of having neglected the interests of the country, but repelled the strictures of the Committee with considerable energy. Here is the note which they appended to their answers to certain questions addressed to them:—"And having now answered the several questions sent to us by their Lordships, we beg leave to observe that we thought we had little reason to expect being called in question for our proceedings of the last year, after having so happily got together, in four days' time, such a considerable fleet for the preservation of the kingdom, so visibly and so imminently in danger." This refers to the expectation of an attack by the French fleet on the English coast. The Admiralty Board were not responsible for the return of the fleet from Cadiz, which was carried out in obedience to the King's orders, issued at the end

of January, and not communicated to the Admiralty till two months later. And, as regards Newfoundland, they were able to show that they had duly complied with the directions given by Order in Council for the despatch of convoys thither.

In the end the inquiry was abandoned as not likely to lead to any good results, but not before much light had been thrown on the favouritism and injustice displayed by the Admiralty in connection with the issue of Letters of Mart. Doubtless there was some truth in what was said by Sir R. Rich, one of the Commissioners, that these were sought by many merchants for their own purposes; but it is impossible to resist the conclusion that partiality, if not corruption, prevailed in the management of this business. That the owners of a vessel carrying 60 guns, and commanded by a man who had already made his mark by a successful engagement with a French frigate, should be driven, by the refusal of the authorities at home, to obtain a commission from the Dutch Government, constituted a grievance, which was much aggravated by the fact that for other vessels and other owners Letters of Mart were obtained without difficulty.

The papers produced before the Committee on the State of the Trade of this Kingdom (No. **1115**) are of considerable interest as illustrating the difficulties which had to be contended with by the home Government in the early days of the colonies. The inquiry was chiefly directed to the obstacles met with in the collection of customs duties in the plantations, especially in those vested in Proprietors and not directly under the King's Government. Conspicuous among such Proprietors was William Penn, whose authority extended, not only to Pennsylvania, but also to the territories then known as the counties of Sussex, Kent, and Newcastle upon Delaware, which he held under a lease granted by James II. when Duke of York. Lord Baltimore was sole Proprietor of Maryland, Samuel Allen of New Hampshire, and other plantations were owned by companies of Proprietors. The conditions of government were not the same in all. In some the Governor was appointed by the Crown, in others the appointment was made by the Proprietors subject to the King's approval, while in a third class the Proprietors practically appointed whom they pleased. The Commissioners of Customs were represented in the American

plantations by their Surveyor-General, Edward Randolph, a zealous officer, whose reports could not fail to rouse the indignation of those whom he criticised. Rightly or wrongly, he attacked the administration of Penn's territories, which he declared to be infested by pirates and smugglers. The state of commercial war which existed between England and Scotland made it inevitable that a Scotchman wielding authority in the plantations should be regarded with distrust. Quakers were everywhere viewed with suspicion. It followed that Randolph felt that his case against Penn was much strengthened when he could point to the fact that in Pennsylvania the Secretary of the province was a Scotchman and the Attorney-General a Quaker. To this it was easy for Penn to reply that there was no law against a Scotchman holding such a position, and that a Quaker might be honest, able, and zealous. But he went a good deal further in defence of the Governor, Markham. Randolph had described him as a favourer of pirates. "He desired me," he added, "to make him Collector of the Customs in Pennsylvania, having (as he wrote me) but a small maintenance, by which your Lordships may please to take notice that Governors under such necessities will be easily tempted to do and connive at unlawful things." The intention here was, of course, to find fault with the meagre salary allowed to the Governor by Penn; but the latter chose to take it otherwise. "If his (Markham's) poverty be an objection, he shall be changed if the King pleases; but for that reason E. Randall (Randolph) ought not to be Surveyor of the Customs, who, I have reason to believe, is not worth five hundred pounds, if one, in the whole world." Yet Penn made no charge of misconduct against Randolph, whose suggestions were readily adopted by the Commissioners of Customs. Moreover, his argument was endorsed by the Commissioners for Trade, when reporting on the nomination by the Proprietors of the Bahamas of Nicholas Webb as their Governor. Finding that the salary proposed to be allotted to him did not exceed 100*l.* a year, they stipulated that it should be increased before his nomination received the King's allowance, "lest he be tempted to use the same courses as his predecessors," who had connived at piracy and illegal trading.

Certainly the picture drawn by Randolph of the condition of the proprietary plantations was sufficiently bad to justify the demand for further powers. The Bahama Islands "have been and still are a common receptacle for pirates and illegal traders." In Carolina, "about four years ago, 70 pirates came with a vast quantity of gold from the Red Sea; they had liberty to stay in the country, or upon giving their bond to leave it. The Governor got well by them." At Massachusetts Bay, though the Governor was appointed by the Crown, the people had made no provision for his maintenance "on purpose to discourage men of honour and abilities to live amongst them." In Maine "the country and the people are most of them destroyed through the neglect and ill-conduct of the owners of it." And so on. What was really wanted was the means of enforcing the Plantation Trade Act of the previous Session. To this end special instructions were given by the Commissioners of Customs to the officers whom they were sending out to the plantations, and who were to be accompanied by Randolph. The standing instructions issued to the Governors were insufficient, because, as the Commissioners tell the Committee, "the Governors of the Proprietors' Islands take no notice of any instructions sent them." Penn was asked by the Committee what objections he could make to putting the government of the Proprietors' Plantations into the King's hands. He replied that the country would be worth nothing to him the moment after he lost his government. The Proprietors as a body stood upon what they alleged to be their rights. One remedial measure recommended by the Commissioners for Trade was the establishment by the Admiralty of vice-admiralty courts in the plantations. It was stated that any governor could have a Vice-Admiral's commission by applying for it, but that the Proprietors' Governors would not apply. Nevertheless the proposal elicited a protest from the Proprietors, who maintained that their respective grants and charters implied the conferment of admiralty jurisdiction, with power to erect admiralty courts. They excused their past neglect to exercise that power on the ground of their conviction that such courts would be both useless and costly, but professed their readiness now to take the necessary steps for their establishment. In

direct opposition to the Proprietors' claim was the opinion of the Attorney-General, Trevor, who found nothing in the charters that could operate in restraint of the King's power to erect admiralty courts; whereupon the Proprietors changed their tactics, and petitioned the King that their Governors might have Vice-Admirals' commissions, conferring the same powers as those exercised by the Governors of His Majesty's other plantations.

The attitude of the Proprietors, however natural, was somewhat provocative. Penn brought forward several counter-proposals, contained in papers which he laid before the Committee. In the last of these he made four suggestions, of which one, when explained, was intended to remedy certain grievances of his own, another was based on a strange misappreciation of the relations existing between the different communities on the other side of the Atlantic, while the remaining two amounted to no more than a pious desire for their moral improvement. The paper was well replied to by Charles Brooke, Collector of Customs at New York, who remarked, in reference to Penn's recommendation that one province should not protect the runaways of another, but that justice should prevail, "This is well proposed, but the ways and means to effect it are wanting"; and, of the further suggestion that the people should be under a stricter discipline in their manners, yet cherished, and kindly as well as justly used by their respective magistrates, "The advice is very good, and to be wished by all honest men it were put in execution." Penn's proposals seem to have made little impression on the Committee, whose chairman expressed to him their opinion that the Proprietors' Governors should receive the same instructions from the King as His Majesty's Governors, and that the Proprietors should be held liable for the misbehaviour of their Deputies. "If," he added significantly, "there be further complaint against the Proprietors after this, the Parliament may possibly take another course in this matter which will be less pleasing to them." The Report of the Committee was in accordance with this pronouncement, and was followed by an Address to the King, asking him to direct that the Proprietors should enter into security here that their

Deputy Governors would obey all instructions sent to them by him, or by those acting under his authority.

The papers connected with the inquiry into the probable consequences of the establishment of an East India Company in Scotland (No. **955**) afford but a faint echo of what is described by Dalrymple as having well-nigh created a civil war between Scotland and England. Though Paterson, notwithstanding the part he had played in the founding of the Bank of England, could count but few followers among responsible men south of the Tweed, his influence in Scotland was unbounded; and the excitement caused there, first by the prospect which he unfolded of the wealth and national aggrandizement that must accrue to his countrymen by the operations of the new company, secondly by the storm of opposition which his plans evoked in England, was intense. But it will be seen that the character of the inquiry soon changed. The English East India Company, after having attacked their Scotch competitors, were obliged to act on the defensive, and repel the onslaught of those English traders who were not of their number, while the Committee addressed themselves to the task of settling the terms on which they should be incorporated by Act of Parliament. This was probably due to two causes. Paterson seems to have soon abandoned the idea of establishing a competing trade with the Indies, and to have centred all his energies on his unfortunate Darien scheme. So the danger which threatened the English traders receded. At the same time the interlopers probably became convinced that they had made a false move in joining the Scotch company, and adopted the plan, which could not be condemned as unpatriotic, of attacking the privileges of the English corporation. The arguments on both sides have now no more than a historical interest, but it must be allowed that they were urged with much ability and some eloquence. The whole controversy, however, had one good result. It helped to bring to the front the question of a parliamentary union between England and Scotland. It was intolerable that the legislatures of the two Kingdoms should be at war with each other. Had not the King, to use his own words, "been badly served" at Edinburgh, that state of war need not have arisen, and the miserable fiasco of the Darien enterprise might have

been averted; but the carelessness of his representatives, in allowing the Scotch company's Bill to become law, with all its startling provisions, did not a little to confirm the growing conviction that something more than a common sovereign was needed to preserve friendly relations between the two countries.

One of the subjects recommended in the King's speech on 23 November 1695 for legislation was the increase and encouragement of seamen, and early in the following year the Seamen's Act (7 & 8 Will. III. c. 21) was passed, some of the amendments to which appear in draft among the papers for March 1695–6. In the previous autumn the King and Queen had handed over Greenwich Palace to Commissioners, who were to use it as a hospital for the relief of seamen, and an annual sum had been granted from the Treasury for its endowment. The Act now passed provided for the payment by every seaman employed in an English ship of 6*d.* a month out of his wages towards the support of the Hospital, the method in which the money was to be collected being left to be arranged by the Admiralty. It also enacted that any seaman might register himself for the King's service, in which case he was to receive a bounty of 40*s.* a year, to be received into the Hospital when disabled, and to have his widow and children provided for, besides sundry other privileges (No. **104**). The inducements do not however appear to have been sufficient to attract the men, for in December 1696, when the House ordered the Commissioners for the Admiralty to give an account as to the effect of the Act, the obstructions, if any, which prevented its working, and the proposals which they could suggest to remove the obstructions, the answer was that only 4,656 men had registered themselves, who were serving in the King's ships, that there was great difficulty in collecting the 6*d.* a month, and that several alterations in the Act were required in order to remove obstructions (*see* No. **1082**). These alterations, which were chiefly suggested by the Commissioners for Registering Seamen, were embodied in an amending Act passed in 1697, which also imposed a penalty for lending the certificates of registration for the purpose of enabling unregistered seamen to escape impressment.

With regard to ecclesiastical and religious matters the most important event of this period was the passing into law of a Bill for the more easy recovery of small tithes. A number of Bills dealing with this subject had been brought in in previous Sessions, some of which have been noticed in the earlier volumes, but it was not until January 1695–6 that a measure for this purpose was successful in getting through the Second House, and settling for a time a question which had been before Parliament for 20 years. During the passage through the House of this Bill, which received the Royal Assent on 13 February 1695–6, two clauses were proposed, one enacting that no persons should be excommunicated for non-payment of small tithes, which was rejected; the other, which forms Section 14 of the Act, providing that no persons suing in the Exchequer or any Ecclesiastical Court for sums under 40*s.* should benefit by the Bill (No. **993**). An Ecclesiastical Courts Regulation Bill, passed by the Lords but dropped in the Commons, proposed to do away with excommunication for contempt of court in cases not directly concerning the Christian faith or reformation of manners, and to substitute a certificate to the Court of Chancery of contumacy, and proceedings in the Court of King's Bench (No. **1043**). A measure to prevent Papists from disinheriting their Protestant heirs came up on 22 April 1696, and was being considered when the Prorogation put an end to it (No. **1055**). It enacted that no conveyance of lands made by a Papist since 1688 should bar a Protestant heir, and that property devoted to the support of priests, education of children in Popish seminaries, or to superstitious uses, should be vested in the King.

The papers specially affecting the Crown are chiefly concerned with the plot to assassinate the King, announced on 24 February 1695–6, and consist of the speech delivered on that day (No. **1019**), a draft of the Association for the Safety of the King's Person, a printed account of it (which was voted a malicious and scurrilous libel), and letters from absent Peers making excuses for not attending the House in answer to the summons (No. **1022**). There are also drafts of two amendments made to the Act for the Security of the King's Person, passed in April 1696, by which all persons holding office under

the Crown, even the household of the Prince and Princess of Denmark, were compelled to subscribe to the Association. One of these amendments allows Quakers to make a declaration, instead of taking the oaths of allegiance and supremacy, and the other concerns offices of inheritance, which are exempted from the operation of the Act (No. **1053**).

The early part of the second Session is memorable for the proceedings upon the case of Sir John Fenwick, who had been apprehended in June 1696, and was attainted by a Bill which came up from the Commons on 26 November (No. **1081**). The papers relating to this Bill include the prisoner's original Confession, stated by Lord Hardwick, in one of his Notes to Burnet's History, to have been among Lord Somers' manuscripts, which were burnt in the fire in Lincoln's Inn in 1752. However, it is printed *in extenso*, with almost complete accuracy, in Dalrymple's Memoirs, and there is nothing fresh to be learnt from the original. What is of more interest is the account, contained in the Clerk's manuscript minutes, of the proceedings in the House during the progress of the Bill, which supplements and illustrates the official record in the Lords' Journals. In particular, the Earl of Monmouth's cross-examination of the Duchess of Norfolk and Matthew Smith, and the speech made by him in self-exculpation, present a vivid picture of his struggles to escape the censure of the House. Among the papers is a letter from William Fuller, addressed to the Lord Keeper, offering to give evidence against Sir John Fenwick, and enclosing a Petition to the two Houses of Parliament (No. **1080**). There is no notice of it in the records, but the Journal of the House of Commons has an entry of the receipt of a letter from Fuller addressed to the Speaker, which the House decided should not be read. There are also a number of letters of excuse from Peers sent in answer to the Lord Keeper's letter of 14 November 1696, requiring their attendance at the proceedings upon the Bill for attainting Sir John Fenwick (No. **1071**).

The Commons in March 1695–6 sent up a Bill to enable the King to grant licence of alienation in mortmain (No. **1036**), which was dropped in the Lords; but in the following month an almost identical Bill became law, under the title of the

Charitable Gifts Act (7 & 8 W. III., c. 37) (No. **1052**), the chief difference being the omission of a long preamble contained in the first Bill stating that the Act of Settlement had put an end to the dispensing power of the sovereign.

In the category of measures affecting Parliament may be included a Bill of 1695, introduced in the Lords but dropped in the Commons, which proposed to amend the Oaths (Ireland) Act of 1691, so as to enable Irish Peers to take the oaths in England, the reason given in the preamble being that all the Irish Peers who lived in England, and did not go over to Ireland to take the oaths (as required by the Act), were thereby deprived of making their proxies in the Irish Parliament, "to the great prejudice of such peers, and the weakening of the English interest in the * * * realm of Ireland." (No. **974**). Two measures relating to elections are included in the Calendar. The Parliamentary Elections (Qualification of Members) Bill (No. **1016**) is the Bill to which the King refused his assent on 10 April 1696, and which, amongst other provisions, required every county member to have a real estate of 500*l.*, and every borough member one of 200*l.* a year. The City of London, in a petition against the Bill (No. **1028**) upon which they were heard by Counsel, urged that it would disqualify very many eminent merchants and traders fit to represent the City in Parliament; but, in spite of their opposition, it passed the Lords without amendment. In the Commons a clause exempting the Universities of Oxford and Cambridge from this requirement had been proposed and rejected, and a clause enacting that all elections should be "by a balloting" had been defeated by the use of the "previous question." A similar Bill sent up by the Commons in December 1696 allowed merchants of seven years' standing, with real or personal estates of 5,000*l.*, to sit as borough members. Investments in any company, or in the Bank of England, were not to constitute the holders merchants. This measure, against which petitions were received from Norwich and many other towns, was defeated on the second reading (No. **1093**).

Among other papers relating to trade and industries appears a Bill for suppressing Hawkers and Pedlars, which was sent up in 1695–6 (No. **1046**). It resembles those passed by the Commons

in 1692–3 and 1694, and like them was rejected by the Lords. The Act of 1696–7 contains provisions taken from these Bills, but differs from them in granting licences to Hawkers and Pedlars, and so making them contribute towards the transport service for the reduction of Ireland. A Petition (No. **1047**), presented to the House in March 1696 by merchants and owners of ships trading to the Plantations, relates to the Plantation Trade Bill then being considered, and points out that, if foreign-built ships are prevented from trading with the Plantations, the effect will be to reduce the number of ships in which the produce of the Plantations can be carried, the want of ships at present occasioning high freights and a scarcity of goods. The Bill, which was apparently aimed at frauds and abuses committed by Scotchmen and others in the Plantation trade, received the Royal Assent in April. No. **1050** is a Bill for restraining the wearing of wrought silks, Bengals, and dyed, printed, or stained calicoes, imported into England, and produced and manufactured in Persia and the East Indies. It enacts that all such goods shall be exported again and not worn in England, and imposes a fine of a hundred pounds for retailing them. Numerous petitions from Linen-drapers, Dyers, Printers, &c., were presented against the Bill (No. **1051**), and in Committee it was amended in several important particulars, but no further proceedings are recorded. In the following year (1696–7) a similar Bill was sent up by the Commons, which the Lords amended by extending it to all wrought silks imported, and all calicoes printed or stained out of the realm. Petitions from the hamlet of Bethnal Green and the Gloucestershire clothiers give the views of the weavers and the clothiers about this trade (No. **1121**). The Commons disagreed to the Lords' amendments as injurious to the export trade, and as imposing additional penalties, which ought to originate only in the House of Commons, and the Bill was lost.

Since the passing of the Act of 1688 prohibiting trade with France, which was intended to encourage privateers, but had not been successful in doing so to any great extent, several Bills designed to remedy the defects of that Act had been from time to time sent up by the Commons, but they had failed to become law. Another measure "to continue the

Acts prohibiting all trade with France and for the encouragement of privateers" was sent up in January 1695–6, which was opposed by certain merchants trading to the Eastland Countries, who feared its effect upon trade (Nos. **991**, **994**). The House proposed to give an Instruction to the Committee of the Whole House to see that no treaties with foreign countries were interfered with by the Bill; but, such a course being unusual, an inquiry was first held into precedents for it. Eventually the Bill went to a Select Committee, where it was amended, and, the Commons disagreeing to the amendments, it suffered the same fate as its predecessors. A measure was introduced in February of the same year, which was intended to prevent trade with France and the export of wool, required all wool shorn within reach of the sea to be entered in the Custom House or next port, and limited the amount to be exported to the Channel Islands (No. **1006**). It was not proceeded with after the first reading.

Two papers relating to the Wool Act, passed in April 1696, are interesting. One is a petition from Exeter merchants praying for freedom of trade with Ireland, which they had enjoyed until 1692, when the Act of that year deprived them of it; the other, a clause added to the Bill in the Lords' Committee, providing for cruisers from the North Foreland to the Isle of Wight, in order to seize vessels exporting wool (No. **1054**). A Bill sent up from the Commons in April 1697 to restrain the number and ill practice of brokers and stock jobbers brought forth a Petition from Merchants and Traders in the City of London against a clause making void contracts for more than three days in which premiums had been paid for liberty to deliver or receive, &c., any share in any joint stock, &c. (No. **1162**). The clause was so amended in Committee as to apply only to future contracts, but the House refused to agree to the amendments, and the Bill became law in its original form. In January 1695–6 a Bill to supply the defects in an Act passed in the previous year, so far as it affected the trade in lustrings and alamodes, was introduced. It was apparently intended to put an end to the monopoly enjoyed by the Lustring Company, and to let the Weavers' Company of London and other similar companies share in the trade; but the opposition

of the Lustring Company was strong enough to procure its rejection without a division (No. **984**). In the following year a petition was presented on behalf of several hundreds of shopkeepers (No. **1153**) against a clause in the Lustring Company, &c. Bill then before the House, which enacted that any person served with a writ should give bail to answer the forfeitures and penalties, or in default suffer judgment against him, and in Committee the obnoxious words were struck out. This Bill, which was to encourage the Royal Lustring Company, and practically confirmed their position as monopolists, making the possession of unmarked lustrings and alamodes an offence under the Act of 1694–5, received the Royal Assent in April 1697, on the same day as a Bill to increase His Majesty's duties on lustrings and alamodes, also sent up by the Commons.

A Petition of the Company of Distillers (No. **1056**) against a duty of 2*d.* per gallon on Low Wines relates to the Spirit Duties Act, which received the Royal Assent on 27 April 1696, and imposed duties upon low wines or spirits of the first extraction. A curious circumstance about this Bill is that it amends an Act passed in the same Session which imposed penalties upon the Master of the Mint if he did not coin a sufficient proportion of shillings and sixpences. Another Petition from the Distillers' Company, presented a year later, prays to be heard against a clause in the Party Guiles Bill allowing all persons to distil spirits from malted corn or cider. That Bill repealed a portion of the Spirit Duties Act requiring brewers to declare how much strong beer and how much small they intended to make of each brewing (No. **1151**). A Petition against an amendment made in a Supply Bill of the same year was received from the Company of White Paper Makers, while the Stationers presented a counter-petition (No. **1132**), the question being as to a clause to prevent the use of white rags for the manufacture of brown paper.

One of the numerous Bills for the ease of Sheriffs in the execution of their offices, and in passing their accounts, introduced during this and the following reign and passed by the Commons, came up on 5 March 1696–7, and was considered and amended in Committee of the whole House, but got no further (No. **1136**).

The Masters and Servants Bill, a measure passed by the Commons for the more easy recovery of servants' wages, recites that servants hired by the year are often dismissed without wages and become burdens to the parish, that Justices of the Peace doubt whether under the Act of Elizabeth they have power to compel payment, and that there are complaints against the servants (No. **1044**). It is apparently intended to prevent servants having any claim upon the parish in which their masters live, and enacts that either party may complain to a Justice of the Peace, who may make an Order.

The Marriages of Infants Bill (to prevent undue marriages of infants and for better securing the guardianship of them), as introduced in 1697, was intended to prevent "loose idle or disorderly persons" from marrying infant heiresses, but in Committee it was amended so as to apply to boys under sixteen as well as girls under fourteen. It was brought in on 10 April, after the consideration of Knight's Bill (No. **1158**), which was probably the immediate cause of its introduction, but dropped in the Commons with the prorogation (No. **1159**).

The Offices (Sale and Purchase) Bill, sent up by the Commons in February 1696–7 (No. **1124**), for the "prevention of corruption," imposed penalties for bargaining for or selling offices and places of trust. It provided that no one already in possession should be ejected because of any such purchase, and the Lords amended it by applying this provision to future appointments, besides adding clauses excepting offices of inheritance, and such as by law might be executed by deputy, provided the deputation was not sold, and exempting the judges from its operation. A clause exempting the officers of the City of London (No. **1126**) was rejected. The Commons disagreed to the clauses and the Bill dropped with the Session.

A clause appears among the papers of 1697, which was brought up for insertion in a Bill from the Commons dealing with some defects in the laws for the relief of the poor. In the clause is a recital of the abuses which have existed in the case of select vestries, such as the appropriation by vestrymen of the funds, or the expenditure of them "in extravagant and unnecessary feastings and other eating and drinking." The Bill was to facili-

tate the removal of poor persons from their own parishes to other parishes where they might find work, and the clause proposed to abolish select vestries, and substitute elected vestries, but it was not persisted with (No. **1161**).

In regard to the law affecting creditors and debtors, there are several papers in the Calendar referring to Bills which came before Parliament during the two Sessions of 1695–6 and 1696–7. The Escapes Prevention Bill (No. **1049**), a measure introduced in the Commons and laid aside in the Lords in 1695–6, was intended to defeat some of the devices by which prisoners for debt were in the habit of obtaining their liberty in spite of their creditors. This object was attained in the following year, when the Creditors' Relief (Privileged Places, &c.) Act was passed into law, which was designed to make the confinement of the prisoners more strict, and was also aimed at various abuses known to exist in relation to prisons, especially at places of sanctuary, such as the Whitefriars, where debtors could defy their creditors. This Bill, which was foreshadowed by clauses in the Law (Reform) Bill of 1690 (*see* Hist. MSS. Commission, 13th Report, Appendix, Part V.) brought forth a number of petitions which are set out in the Calendar, some of them from prisoners, others from persons who had complaints to make of extortion and other malpractices on the part of prison officials, and several from those who were interested in offices attached to some of the prisons, such as the office of Warden of the Fleet, &c. (No. **1114**). The prisoners and also the Warden of the Fleet, protesting against the abolition of the Rules of the prison, point out that the system of keeping prisoners in streets near the prison was established to prevent infection, which might be expected to follow if all the prisoners were confined within the prisons, where there was only room for a small proportion of their number. The Bill was considered by a Select Committee, who had the assistance of the Judges, several of the petitioners being heard by their counsel or in person. During the proceedings, an accusation of breach of privilege, made against John Tilley by Richard Luxford, one of the petitioners, was inquired into by the Committee, but no action was taken upon it, Tilley's explanation being that it was the result of a conspiracy to ruin him, entered into in the interest of Col. Baldwin Leighton,

another claimant to the office of Warden of the Fleet. The controversy about this office, which was of some value and originally included a mansion house, thirteen houses, and all the shops in Westminster Hall, besides the office of keeping the Palace at Westminster, had been going on for some years and has been mentioned in several volumes of the Calendar. Charles II. having granted the office to Sir Jeremy Whichcote, it came in course of time to Richard Manlove, and the question in dispute was whether it had been forfeited by his extortion (of which he was found guilty by Inquisition), and whether in that case it passed to Col. Leighton, who had obtained a grant of it from the King, or to the Reversioner. In 1692 Leighton had applied to the House for relief, but had been refused a hearing then, and he presented another Petition to the House in February 1696–7, making a second application for justice against Tilley (No. **1111**). The House referred the Petition to a Select Committee, to consider how far it was proper to take cognizance of the matter contained in it; and, after an exhaustive inquiry, an elaborate Report was made to the House of the precedents and arguments employed, and leave was given to Leighton to bring in a Bill for his relief. An unsuccessful Appeal by Tilley in relation to the Bill for the sale of the office in 1692 is noticed elsewhere. Three Petitions presented to the House in February 1695–6 from various creditors of bankrupt and other debtors pray to be heard against the Creditors' Relief (Compositions) Bill, a measure which enabled two-thirds of the creditors to make a composition with the debtor, while two other Petitions are from creditors praying to be heard in favour of it. The Bill, which somewhat resembles a Bill introduced in 1694–5 but not proceeded with, received the Royal Assent in April. (*See* No. **1116**.)

A number of Estate Bills appear among the Papers, most of them being, as usual, brought in for the sale of land, in order to pay off debts or make jointures, or for the improvement of estates. Of those relating to London, the Marquess of Tavistock's Estate Act is for the purpose of making a wet dock at Rotherhithe (then called Redriffe), and so improving the estate of Wriothesley, son of Lord Russell, afterwards 2nd

Duke of Bedford (No. **1041**); the Duchess of Buccleuch's Estate Act (No. **1042**) is for the improvement of land in the parish of St. Martin's in the Fields belonging to the widow of the Duke of Monmouth, who had been created Duke of Buccleuch on his marriage, his wife being already Countess of Buccleuch in her own right. No. **1101** is a Bill to enable James, Duke of Ormonde, Lord Lieutenant of Ireland, to raise money for payment of debts and for encouraging English Plantation in Ireland, which was amended by inserting in the title that it was for the Duke's grandson, Charles Earl of Arran (here described as Lord Weston, but really created Lord Butler of Weston) to make leases of his estates in Ireland. The deaths of Lord Holles and his son, whereby the barony became extinct, occasioned the introduction by their kinsman, the Duke of Newcastle, of an Estate Bill (No. **1108**). He succeeded to the property, and having already inherited a great part of the Cavendish estates, became one of the richest subjects in the Kingdom. The Colepeper Estate is the subject of a Bill brought in by Lord Fairfax (No. **1143**), who married the daughter and heiress of Thomas Lord Colepeper, formerly Governor of Virginia. By this marriage Leeds Castle and other English estates came to the Fairfax family, and an enormous property in Virginia. The claim of John Peshall and his wife (mentioned elsewhere) to a dowry of 80*l.* was apparently satisfied by a payment of 4,000*l.*, but the then Lord Colepeper opposed the Bill, and, before the hearing of the parties was concluded, the prorogation put an end to the proceedings. There are one or two other papers relating to private Bills. A proviso inserted in the St. James' Parish Act prohibits the placing of more than two bells in the church or steeple (No. **1021**). Petitions are presented by two persons interested against the Bill for re-vesting in the Crown the manor of Tutbury, Needwood Forest, &c., which had been granted to the owner of the land on which the fort at Sheerness was erected (No. **1040**), and from Gloucester and other places in the neighbourhood against a Bill for making the Wye and Lugg navigable (No. **1017**). A Bill for re-vesting in John Spademan the mediety of the Rectory and Church of Llandinam, Montgomeryshire, in case he should have forfeited it by not taking the oaths

(No. **1137**), was rejected, apparently in consequence of a Petition from the Chapter of Bangor (No. **1142**), stating that the Rectory was vested in that body by Act of Parliament for pious and charitable uses. There are also two Naturalization Acts, one of which is to naturalise the children of Henry de Nassau, Lord of Auverquerque, the Master of the Horse and companion in arms of William III., whose life he had saved at the battle of St. Dennis in 1678 (No. **1013**). The eldest son was in 1698 created Earl of Grantham.

As usual, there are numerous cases relating to Privilege, and to Protections granted by Peers to their Servants. Although the Privilege of the King's servants had been abolished in 1693, two Petitions praying for discharge from arrest appear in the Calendar, one from Henry Killigrew, a Gentleman of the Privy Chamber (No. **964**), the other from Thomas Davis, one of the Messengers to the King (No. **1039**), who had been arrested while serving a warrant for high treason. An Order for the attendance of the persons concerned in the case of Davis was made, but on the following day, after the Order against protecting the King's Servants had been read, they were discharged. A Bill respecting Privilege of Parliament came up from the Commons in February 1695-6, its object being to reverse the judgment given against Sir William Williams for what he did as Speaker of the House of Commons,* and for asserting the rights and freedom of Parliament (No. **998**). A Committee was appointed to examine precedents, and the Bill was read a second time and committed, but no further proceedings took place.

The Protections granted by Peers to their Servants continue to be a fruitful source of complaints of various kinds. Charles Brockwell, menial servant and secretary to the Earl of Bradford, complains that his wife's clothes have been seized by the landlord and an attorney for diet and boarding (No. **1086**), while John Ellison, a creditor of James Howard, states that his debtor, though able to pay, shelters himself behind a Protection from his kinsman the Duke of Norfolk (No. **1098**). The Under-Sheriff of Middlesex petitions to be indemnified for

* He had been fined 10,000*l.* for authorizing, as Speaker, the publication of the Votes in which Dangerfield's Plot was set out.

discharging Abel Weekes, arrested for debt, but protected by Lord Morley and Monteagle* (No. **1096**). Susannah Harrington prays that a Protection given to her husband by the Earl of Warrington may be set aside, in order that he may be compelled to answer in a cause of separation or divorce (No. **1152**). The Bishop of Llandaff complains that two persons have seized his estate (No. **1130**). A cheesemonger in King Street and a bailiff are reprimanded for arresting a servant of the Duke of Richmond (No. **1160**). The Earl of Derby complains that his Steward has been committed to the Fleet. The defence being that the Steward is a Common Attorney and not entitled to privilege, the question was referred to the Committee for Privileges, with the result that a Standing Order was passed that no Attorney or Solicitor was to be allowed Privilege (No. **1065**). Lord Derby figures in other cases; in one Lady Charlotte Cooper desires to proceed against him for a legacy, while in another his mother complains that her dowry is in arrear (Nos. **1141**, **1148**). He is also concerned in a Petition from the executors of Lord Widdrington, praying that he may waive his privilege as regards the estate of William Stanley, to which he lays claim, in order that they may be enabled to prove the wills of Stanley and Lord Widdrington (No. **1144**). Lord Hastings prays leave to proceed at law against his father, the Earl of Huntingdon, in the matter of an estate left to him by his mother, and the House appoints seven Lords to "endeavour an accommodation" (No. **1091**).

Other cases in which privilege was made use of in order to evade claims or obstruct the course of justice are those of Sir Miles Cooke, a Master in Chancery, who refused to pay a solicitor employed on behalf of his son, then a prisoner in Newgate for high treason (No. **1113**); the Earl of Warrington, whose nephew complains that, by insisting on his privilege, he has defeated judgments and decrees obtained against him (No. **1154**); and the Earl of Nottingham, whose creditors complain that they cannot get payment for work done, and that there has not been an interval of privilege long enough to enable them to sue him at

* L. Morley and Monteagle was a prominent offender in the matter of Protections, and was committed to the Tower in 1691 after an investigation by the House. (*See* Hist. MSS. Com., 14th Rep., App., Part VI.)

law (No. **1092**). On reading the petition of the creditors in this last case, the House made the Standing Order that the filing of an original should not be a breach of privilege.* An instance of a similar misuse of privilege by a member of the House of Commons occurs in the case of Serjeant Coward, who had married Lord Mohun's widow, and, by insisting on privilege, prevented a decree of the Court of Chancery as to his wife's jointure from being carried into effect (No. **1135**).

In the case of the Bishop of St. David's (No. **1035**) the House referred the question of his privilege to the Committee for Privileges, who, "finding great difficulty in the matter," left it to the House. The Bishop, however, declared that he would waive his privilege, as he had done in a previous case in 1691–92. (*See* Historical MSS. Commission, 14th Report, Appendix, Part VI., No. **538**.)

In two notable disputes about privilege the grievance was that a Peer, after agreeing to waive his privilege, had resumed it. One is the famous suit between the Earl of Bath and the Earl of Montagu about the estate of the 2nd Duke of Albemarle, which has been noticed in previous Calendars (No. **1066**). The two Earls had agreed in 1693 to waive their privilege in all matters relating to the estate, and the Earl of Montagu now complains of a breach of the agreement, while his opponent tries to justify his action in resuming his privilege. The dispute was settled by a fresh agreement; and when, a year later, the Earl of Montagu complained of a similar breach of the new agreement, the House ordered the Earl of Bath to waive his privilege on the terms proposed by his opponent.

The other case of resuming privilege relates to the sale by Lord Berkeley of Stratton of his house in Piccadilly.† He had apparently agreed one morning to sell it to the Duke of Devonshire, and the same afternoon, just as he was going to sea, he agreed to sell it to the Marquess of Normanby, and the latter brought a Bill in Chancery for the execution of the agreement. The complaint made by Lord Normanby is that, after the three parties had agreed to waive privilege, the Duke resumed his;

* S.O. 74.

† Berkeley House occupied the site of Devonshire House, was tenanted for a time, until this sale took place, by Princess Anne, and is described as being the last house in Piccadilly.

but the Duke declared that he had given his counsel no authority, and endeavoured to induce the House to express an opinion whether he had or had not waived his privilege. Failing in this attempt, he decided not to insist upon it (No. **1067**).

A conference with the Commons upon the subject of privilege took place in November 1696, in consequence of a complaint by John Peshall that Lord Fairfax, standing upon his privilege as a member of the House of Commons, refused to pay to Peshall's wife, a natural daughter of Lord Colepeper, the dowry in consideration of which he had married her. At the conference the Commons communicated a Resolution that no member of the House of Commons should have any privilege, except for his person, against a commoner in any suit or proceedings when the House was not actually sitting for the despatch of business. Upon this the Lords prepared a Bill for the greater ease of the subjects in recovering their just debts. Before going into Committee on it, they considered the book of Protections and the cases of Ellison and Smith, already noticed (Nos. **1096**, **1098**), and made an Order, to the same effect as the Standing Order of 1712, abolishing all written Protections. The Bill proposed to go further than the Act of 1701 dealing with this subject, in allowing actions to be brought during the Session, but it was laid aside after having passed through Committee of the whole House (No. **1089**).

Numerous Appeals were presented to the House in the course of the two Sessions which are included in this volume, some of which may be briefly noticed. In No. **962** is revealed a curious transaction, being an attempt to recover 500*l.* as payment for services in procuring a marriage between Thomas Thynne, known as "Tom of ten thousand," and Lady Ogle, heiress of the Percy estates, who afterwards married, at the age of 17, a third husband, the "proud" Duke of Somerset, Thynne having been murdered in the year of his marriage at the instigation of Count Königsmark. The fact of this Appeal having been brought is evidence that the marriage to Thynne actually took place, as to which some doubts have been expressed, in spite of the statements of Luttrell and Shower.

An Appeal respecting the timber on some estates in Westmoreland relates to the purchase by Colonel Graham

son of Sir George Graham, of Esk, of the Bellingham property, including the manor of Levens, in that county, to which in the following year he was allowed to retire, after his arrest on suspicion of being in communication with his former patron, James II. (No. **935**). An alleged infringement of the rights of the Heralds by a person who had painted coats of arms for coffins and marshalled funerals was the occasion of a suit in the Court of Chivalry of the Earl Marshal, brought by the King's Advocate in that Court (No. **995**), and of an Appeal by Writ of Error against a prohibition granted by the Court of Exchequer. The House in this case, which had already been considered in 1691, upheld the Court of Exchequer. The marriage settlement of the Duke of Southampton, whose wife was the daughter and heiress of Sir Henry Wood, came before the House once more in the form of an unsuccessful Appeal by Sir Cæsar Wood against a decree by which the other co-heir obtained half the estate (No. **999**). Bromley College, an institution founded in 1666 by Dr. Warner, Bishop of Rochester, for the maintenance of widows of clergymen, and since enlarged by means of subsequent endowments, is the subject of an appeal by Lee Warner against a decree of a Commission of Charitable Uses (No. **1005**). An insurance for 100*l.*, depending upon the taking on or before Christmas Day 1696 of the city of Casale,* in Montferrat, by the King of Spain or Duke of Savoy, is the occasion of an Appeal (No. **1009**) by Charles Davenant, Doctor of Laws. The premium paid appears to have been 60 guineas. A dispute about an estate in Herefordshire is the subject of an Appeal (No. **1029**), the question being whether it had been purchased absolutely or in trust, the owner of it having served as a captain in the Royalist Army, and his property having been sequestrated when the Parliamentary Army took Hereford. A claim for agistment tithes is made in No. **1069** by the Rector of Yeovileton, Somerset, against the Appellants for depasturing and fattening their oxen for ten years. A custom of the City of London by which, if a testator left no children living at the time of his death, the widow was entitled to one-half of the

* Casale, though one of the strongest places in Europe, was surrendered by the French to the Duke of Savoy in an unaccountably short time after its investment.

estate in addition to what was left to her by will, was successfully pleaded in No. **1074**. A case relating to error in a sentence for high treason came before the House at the instance of Lady Roscommon (No. **1075**). Charles II. had granted to her husband (the poet) certain forfeited estates in Ireland, among them one which had been the property of Capt. Walcott, who was executed for high treason. Walcott's son obtained a reversal of the judgment because the words *ipso vivente* had been omitted from it, and the Judges stated at the hearing that, if a Writ of Error had been brought before his execution, the omission of those words would have saved his life. The farming out of the duties arising from hearth-money, and a transfer of the interest in that impost from two London goldsmiths and other persons, was the occasion of an Appeal (No. **1078**). Another case, on which 11,000*l.* was said to be depending, concerned the Office of Warden of the Fleet Prison. A Bill for the sale of Thomas Bromhall's interest in this office had been passed in 1692,* the opposition to it having been bought off by means of a bond for 1,000*l.* given by John Tilley to the opponents, and Tilley now comes to make an unsuccessful attempt to repudiate the bond, as having been obtained without due consideration (No. **1090**). The question in dispute in No. **1105** was whether the tithes on peas, carrots, and turnips were small tithes, payable to the Vicar of Great Linton, Cambridgeshire, or whether they ought to be paid to the farmers of the Rectory under Pembroke Hall College. An Appeal relating to lead mines in Derbyshire (No. **1107**) discloses some curious customs (admitted by both sides to be in existence) as to the right of miners to get ore, sink shafts, and make "soughs" for draining the mines and washing the ore, without hindrance by the owners of the land. The Countess Dowager of Radnor, "Relict of the Right Hon. Robert Roberts, Esq.," appears as Appellant against Abraham Van den Bendy (or Bempde) for her dower, her husband, Viscount Bodmin, who died in his father's lifetime, not having made any settlement upon her (No. **1149**). A dispute between Rachel, Countess of Westmorland, and the Earl of Derby appears in the form of a Petition by the lady to the House complaining of the non-

* *See* 14th Report, Hist. Man. Com., Appx., Part VI., No. **629**.

payment of a fee-farm rent payable out of the Priory of Rissing, in the Isle of Man (No. **1150**).

Some of the items contained in the Public Accounts (No. **996**) deserve notice. The sum of 23,430*l.* was expended on Secret Service, 18,004*l.* on Bounties and Free Gifts, 5,374*l.* on Rewards for Services, and 43,250*l.* to unnamed Pensioners, making an aggregate of 90,058*l.*, as to the disposal of which Parliament was left in ignorance. For Secret Service 9,392*l.* had been handed over to Guy, the Secretary of the Treasury, before his dismissal for corruption in connection with army pay. Burnet says that he was believed to have been implicated with Trevor in bribing members of the House of Commons. "The share he had in the secret distribution of money had made him a necessary man for those methods." The Accounts show that 97,500*l.* was expended on 27 new ships for the Navy, with their armament, making an average of 3,611*l.* per ship, while the charge for the current service of the Navy amounted to 2,010,641*l.* The Army cost 2,765,247*l.* The amount of pension allowed to Princess Anne and her husband was 53,500*l.*, an increase of 4,000*l.* over the allowance for the year 1693. There was a similar increase of 1,500*l.* in the Queen Dowager's Pension. That so modest a sum as 50*l.* was all that was required for the expenses of prosecuting clippers seems curious considering the number of those engaged in that nefarious industry who were brought to justice, if one may judge by the frequent mention in Luttrell of punishments inflicted upon them. Their profits may be roughly gauged by the amount (1,200,000*l.*) which the country had to pay to make up the deficiency on the mutilated coinage. The revenue of the Post Office was 87,912*l.*, out of which large pensions, amounting in the aggregate to 28,250*l.*, were paid to the Duchesses of Cleveland and Grafton, the Dukes of Leeds and Schomberg, the Earl of Rochester, Sir John Somers, and others. Repayment of loans absorbed 10,677*l.*, "the works" 18,705*l.*, "the gardens" 600*l.*, working expenses 24,291*l.*, and interest on loans 144*l.*, leaving a balance of 5,200*l.*, which was paid into the Exchequer.

THE

MANUSCRIPTS

OF THE

HOUSE OF LORDS.

943. Nov. 22.—Garter's Roll.—A Roll of the Nobility of England, delivered to the Clerk of the Parliament. *Signed* Tho : St. George, Garter Principal King of Arms. It contains 165 names. *Parchment Collection.*

944. Nov. 22.—Test Roll (30 Car. II. Stat. 2. c. 1).—Roll for the Parliament begun this day containing the signatures (158) of Lords to the Declaration in the Act of 1678 for the more effectual preserving the King's Person and Government by disabling Papists from sitting in either House of Parliament. *Parchment Collection.*

945. Nov. 22.—Writs of Summons.—Writs of Summons to the following Lords :—

1. Charles, D. St. Albans	Writ dated	12 Oct. 1695.
2. Charles, D. Shrewsbury	,,	,,
3. William, M. Halifax	,,	,,
4. Aubrey, E. Oxford	,,	,,
5. John, E. Bridgewater	,,	,,
6. Edward, E. Warwick	,,	15 Nov. 1695.
7. Charles, E. Manchester	,,	12 Oct. 1695.
8. Thomas, E. Stamford	,,	,,
9. Charles, E. Carlisle	,,	,,
10. John, E. Marlborough	,,	,,
11. Francis, E. Bradford	,,	,,
12. Henry, E. Romney	,,	,,
13. Henry, V. Longueville	,,	,,
14. Henry [Compton], Bp. of London	,,	,,
15. Robert, L. Willoughby of Eresby	,,	,,
16. Charles, L. Berkeley of Berkeley	,,	,,
17. Robert, L. Hunsdon	,,	,,
18. John, L. Vaughan	,,	,,
19. John, L. Colepeper	,,	,,
20. Robert, L. Lucas	,,	,,
21. John, L. Berkeley of Stratton	,,	,,
22. Charles,* L. Granville	,,	,,
23. Francis, L. Guilford	,,	,,
24. Sidney, L. Godolphin	,,	,,

* Entered wrongly in L. J. as "John."

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25. John, L. Jeffreys — Writ dated 12 Oct. 1695.
26. Hugh, L. Cholmondeley — ,, — ,,
[Took the Oaths this day. L. J., XV. 597–8.]

946. Nov. 22.—Writ of Summons (L. Dartmouth).—Writ of Summons, dated 16 Nov. 1695, to William, L. Dartmouth. [Sat first in Parliament this day. L. J., XV. 598.]

947. Nov. 23.—Writs of Summons.—Writs of Summons, dated 12 Oct. 1695, to the following Lords :—

1. George, D. Cumberland.
2. Edward, E. Sandwich.
3. Nathaniel [Crew], Bp. of Durham.

[Took the Oaths this day. L. J., XV. 600.]

948. Nov. 23.—Writ of Summons (E. Anglesey).—Writ of Summons, dated 12 Oct. 1695, to James, E. Anglesey. [Sat first in Parliament this day. L. J., XV. 600.]

949. Nov. 23.—North *v.* Cecill.—Petition and Appeal of Dame Anne North. Petitioner, whilst she was sole, made a lease of a house in Bristol to Phillip Cecill, Esq. She afterwards married Sir Dudley North, Knt., who sued and outlawed Cecill for arrears of rent, and got the Sheriff of the County to levy several sums on his lands in Monmouthshire to satisfy the said arrears. Cecill afterwards exhibited a Bill in the Court of Exchequer, and obtained a Decree ordering Petitioner, as her late husband's Executrix, and Mr. Thomas Edwards, her Attorney, to account for the sums levied. In the Account settled by the Deputy Remembrancer, Petitioner was charged with the sums levied by the Sheriff, as well as the sums paid to Edwards, which were the same money, so that she was charged twice over. Appeals against the Decree. *Signed* Ann North ; *Countersigned* R. North, Wm. Banastre. L. J., XV. 600. [At the Hearing, on 18 Feb., *Sir Thomas Powys* and *Mr. Dod* appeared for Appellant, and *Sir Bartholomew Shore* and *Mr. Browne* for Respondent. For the former it was alleged that some money remained in the Sheriff's hands, and for the latter that he had no way of compelling the Sheriff to pay. MS. Min. Appeal dismissed with 10*l.* costs. L. J., XV. 673.]

Annexed :—

(*a*) 13 Dec.—Answer of Phillip Cecill, Esq. The sum in dispute is only 10*l.*, which is alleged to have been charged twice over. It is beneath the dignity of the House to consider so small a matter. *Signed* Phill. Cecill ; *Countersigned* Fran. Browne. *Endorsed* as brought in this day. MS. Min. See also L. J., XV. 673.

950. Nov. 25.—Writ of Summons (L. Raby).—Writ of Summons, dated 16 Nov. 1695, to Thomas, L. Raby. [Introduced (by Order of the House, after production of precedents), under special limitation, this day. L. J., XV. 601 *in extenso*. On 2 Dec. the House ordered that the reason why Lord Raby was introduced should be entered in the Roll of Standing Orders. *Ib.* 602.]

951. Nov. 25.—Writs of Summons.—Writs of Summons, dated 12 Oct. 1695, to the following Lords :—

1. Algernon, E. Essex.
2. John, L. La Warr. [De La Warr in Garter's Roll.]

[Took the Oaths this day. L. J., XV. 601.]

952. Dec. 2.—Writs of Summons.—Writs of Summons, dated 12 Oct. 1695, to the following Lords :—

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1. Gilbert [Burnet], Bishop of Salisbury.
2. Ralph, L. Eure.
3. Hugh, L. Willoughby de Parham.
4. Peregrine, L. Keviton [L. Osborne in Garter's Roll].

[Took the Oaths this day. L. J., XV. 602.]

953. Dec. 3.—Writ of Summons (D. Southampton).—Writ of Summons, dated 12 Oct. 1695, to Charles, D. Southampton. [Took the Oaths this day. L. J., XV. 603.]

954. Dec. 3.—Whitaker *v.* Pawlin.—Petition and Appeal of Edward Whitaker, Gent. (See No. 396, 13th Report, Hist. MSS. Comm., Appendix, Part V., for the circumstances of the Cause). A Report of John Loggin's estate in the hands of William Pawlin and William Loggin was made and twice confirmed; but, on John Loggin's death, and on the departure beyond the sea on His Majesty's service of William Wallis, who could prove the account, Respondents brought fresh exceptions to the Report, and obtained an Order referring the Report back to the Master. Appeals against this Order. *Signed* by Appellant; *Countersigned* Wm. Whitelocke, Edw. Hildeyard. L. J., XV. 602. At the hearing, on 8 Jan, *Mr. Finch* and *Mr. Dobyns* appeared for Appellant, and *Sir Thomas Powys* and *Mr. Filmer* for Respondents. MS. Min. Appeal dismissed with 20*l.* costs. L. J., XV. 633.]

Annexed:—

(*a*) 16 Dec.—Joint and Several Answer of Wm. Pawlin and Wm. Loggin. The Orders complained of are just. *Signed* by Respondents, and *countersigned* by Tho: Powys and J. Jekyll. *Endorsed* as brought in this day, "and paid 2*s.* to Mr. Walker for the file thereof." See also L. J., XV. 633.

955. Dec. 3.—East India Company (Scotland) (State of the Nation).—Papers produced before the Committee of the Whole House, in consequence of an Order made this day, on report from the C.W.H. on the State of the Nation, for the attendance of Merchants trading to the East and West Indies and Africa, and also the Commissioners of the Customs, to give an account wherein the Act of Parliament, lately made in Scotland, for a Company trading to Africa and the Indies, may be prejudicial to the trade of this kingdom into those parts (L. J., XV. 603). The MS. Min. and the Com. Book supplement the Lords' Journal as follows:—

On 2 Dec. the House was moved to consider the state of the coin of the kingdom;—the trade of the kingdom in general, and that which relates to East India particularly. *Moved* to appoint a day to take into consideration the State of the Nation.—On the 3rd the House went into Committee on the State of the Nation, E. Huntingdon in the chair. *Moved* to consider the state of the coin. *Moved* to consider the state of trade first. The Scotch Act concerning trade, dated 26 June 1695, was read. *Moved* that the East India Company and the persons trading to the West Indies be sent to, to give the House an account wherein the Act is prejudicial to the kingdom as to trade. Turkey Company and other Companies trading [to] give the House an account of trade. To give an account of the inconveniencies that may happen from the Act. That some of the Commissioners of Customs be sent to also, to represent how prejudicial this Act may be to trade. *Ordered* to report as in L. J., XV. 603.—On 5 Dec. House again in Committee, E. Huntingdon in the chair. Then the Commissioners of Customs and Merchants were called in. *Sir Robert Southwell* heard as to the Act. The Act gives liberty to trade Custom

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free. When ye consider our trade is clogged with Customs, they will undersell us. As to the West Indies, we have officers, and we correspond with the Governors. There are some duties paid there. We cannot tell where they will plant. I cannot tell where, without invading the King's property, they can plant or pitch. The merchants named in the Act, if they please to name the place, we can say more. *Sir Patience Ward* heard. The *East Indian Company* heard by Dorrington [Doddington]. He says the East India Company have drawn up their Reasons, and he was heard to them. We must not pretend to go to foreign markets with them. They will undersell us. They will draw off great stocks from us. They will set up a manufacture for English manufactures. They are not accountable to anybody. We pay great taxes. Delivers a paper (*b* below). The *African Company* were heard, and delivered a paper (*a* below). *Mr. Percival* heard as to the West Indies. *Mr. Sam. Shepheard* heard to the East and West India Trade. This Act is carried on by the present East India Company, several of them being Committee men named in the Act. By the enlargement of the trade to India we can continue the trade; and this way the Act of Scotland will be of little value. If our calicoes and other commodities pay no duty, the Customs will fall. They withdraw. Being called in again, the Order was read to *Mr. Shepheard*, and he was told he might speak to this matter. This Act, he says, was begun by people in England, and they are making lends to several for subscribes, and to me, and I would not subscribe. We pay a subsidy and additional duty. If we draw back all our subsidy, we are on the same foot in Scotland, and we pay no duty. For the business of Africa, I cannot find where they can plant. They cannot bring a Scotch commodity there already. *Answer to Shepheard.* There are many places in America not under His Majesty. Instances given. *Mr. Doddington* heard again as to the East India Company, in support to it. If the Scotch Company go on, the Scotch pedlars will bring in daily, and the owlers and others will fill England. The tonnage of ships. We employ many persons. *Mr. Gardner* heard. I take it that the trade of England, Scotland and Ireland, the greater trade they drive, it [is] for the advantage, so each other doth not overbalance to prejudice the other. Want of security. This war hath made other countries endeavour to increase their trade. Securing the trade will be a great encouragement to trade. Asked if he had subscribed to the Scotch Company, he said, No.—On 9 Dec. papers (*a*) and (*b*) below were read. *Proposed* to call in the Merchants summoned on Saturday last (*see* L. J., XV. 607), and ask them why these persons, who are merchants in England, have incorporated themselves in the East India Company in Scotland, which may be prejudicial to England. That the Merchants give in a list of the names of such persons as have engaged themselves in this Company, and what stocks they have. *Agreed to* (paper *c*[1]). The *Merchants* were called in and asked if they were the men. They say, Yes, they are. Then, being asked the 1st Question, *answer*, We did not understand it would be prejudicial to England. We are traders. Asked whether they trade in England, they say, Yes. We did not think it any crime in us to be incorporated in Scotland. We understood no hurt in it. If we had, we should [have] advised upon it. *Fowles* says he is a Scotchman and denised. *James Chesley.* He was born beyond sea, but naturalised. *Tho: Coutts*, a Scotchman. *Hugh Frasier*, a Scotchman. *Joseph Cohen d' Azevedo. Walter Stewart*, Scotch. The 2nd Question was asked. That they give a list of the names of such persons as have engaged themselves in this Act. They say, When the books were full, we

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delivered them to the Scoteh gent[lemen], and they are carried over. We have a copy of names. We can bring in a list in time. Lord Belhaven, Robert Blackwood, James Balfour. *Ordered* That on Thursday next they deliver a list of the names of sueh persons as have subscribed to the East India Company in Scotland, and what stoeks they have; and that they put against the name of every person of what nation he is. *Mr. Lancaster. Mr. Douglas, Mr. Tho: Skinner, Paul Duckmency, Anthony Merry, Mr. Glover.* Asked, if they know any man to be of the Company that was not a subseriber, they answer, they know none. Asked who treated with them to have their names inserted, they answer, We trade and deal to Seotland. We were known in Scotland, and so eame in. They withdrew. *Proposed* to be ealled in and asked apart who they applied to in England for obtaining this Act in Scotland, who obtained it, and in what manner it was obtained. *Cheseley:* I know [not] anybody in England that was applied to directly or indireetly. The people in Seotland knew us, and that is the reason they put in our names. At Mr. Paterson's request it was that this Jew and another was put in it. I have heard five or six years sinee that Seotland had a design for sueh an Act. He withdrew. *James Smith* called in and asked as before: I know nothing of it. I heard of it by these gentlemen. I know nothing more. I know nothing of procuring the Aet. *Moved* That Mr. Wm. Paterson be summoned. *Mr. Smith* says he lives in Denmark Street, by Soho. *Ordered* that Mr. William Paterson do forthwith attend this House. *Ordered* to move the House That Robert Blaekwood and James Balfour do attend, &e. as in L. J. Then *Lancaster* was ealled in and heard to the above said question: I know nothing of obtaining the Act. It was passed before I knew it. I knew nothing till I saw the Aet, nor any artieles previous to it. Asked if he knew the persons engaged to carry on the Act, *answers*, I heard none but some of these engaged in the Aet, and they have been seeking ten years how to settle trade, and are now settled in Scotland. *Moved* to send to the Commissioners of the Customs that they lay before this House what they think may obviate the ineonveniencies that may arise to the trade of England from the Act for erecting an East India Company in Scotland. *Agreed to.* After some time the House was resumed. Then follows the report as in L. J. Then, the House being informed that *Mr. Paterson* was at the door, he was ealled in and sworn. The Lord Keeper, by direction of the House, [said] that what he should declare on oath should not turn to his prejudice, and he was asked as follows:—What he knows of soliciting and negotiating for obtaining the Act for establishing an East India Company in Scotland? Answer: I have been eonversant in foreign trade. I solicited abroad. In 1691 I returned to England. I had a proposal to the Bank of England, but not rewarded. In May I was solicited by Scotch gent[lemen] that if I would give my opinion as to the Scotch Act I should be rewarded. From my opinion the Act was drawn. As to the passing the Aet I know not. Asked if he did not transact with gent[lemen] here? Answer, Mr. Cheseley and Mr. Coutts proposed it to me. Asked if he has the book of subscriptions, he says he believes it was delivered to the Scotch gent[lemen]. Asked if he knew of any shares promised for rewards? Answer, I know of none but what was to me that some I mentioned * * * I believe the book may be had. *Ordered* that Mr. Paterson attend on Thursday next. The rest as in L. J.—On 12 Dec. *Mr. Blackwood* and *Mr. James Balfour* were called in, and asked for the books. They say they sent the books into Scotland, that he hath duplieates of them. I did not hear of it till

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yesterday. He sent the books on Tuesday last by the post. They withdraw; and, being called in again, asked if he had the duplicate he says? Answer: The Secretary has a copy, and is without. *Mr. Roderick Mackenzie* was called in, sworn, and asked if he has a copy of the book? He says he has a copy of the subscribers' names. Asked when the book was sent away, he says he knows nothing of the time when or whither it is sent away. *Mr. Blackwood* was sworn. Asked when he had the book? Answer, it was Friday last, and I gave it my man to send it away. I know not whether he went on Tuesday or Wednesday morning last. I do not know where it is. My man is gone to Scotland. *Mr. Balfour*, sworn, delivers the copy of the preamble to the book. (Paper c^1.) They withdrew. The Commissioners of Customs delivered their Paper (c^2), as ordered on Monday last. The East India Company delivered their Paper (c^3), as ordered on Monday last. The Hamburgh Company delivered their Paper (c^4), as ordered on Monday last. The West India Merchants called in. Ordered to prepare their remedies against to-morrow morning. Mr. Gardner's Paper (c^5) delivered pursuant to the Order of Monday last. In C. W. H. on the State of the Nation, E. Huntingdon in the chair, the preamble [to] the book of subscriptions (Paper c^1) was read, as well as a list of the subscriptions (Paper c^1). Papers (c^2), (c^3), (c^4), and $(c)^5$ were read. The African Merchants delivered their Paper (c^6), as ordered on Monday last, which was read. An Address to the King on the subject was agreed to be drawn up. Report as in L. J.*—On 13 Dec. the Address was brought up and agreed to, and a message sent to the Commons to desire a conference to obtain their concurrence. Papers were delivered by the Jamaica and Leeward Island Merchants (Papers *d* and *e*).—On 16 Dec. L. Chamberlain (E. Dorset), E. Kent, L. Colepeper, E. Craven, and Bp. Peterborough were added to the former Managers of the Conference with the Commons on the Address.—On 18 Dec. the Turkey Company were called in and delivered a paper, which was read (Paper *f*).—On 20 Dec., in C. W. H., E. Huntingdon Chairman, Papers (*a*) to (*f*) inclusive, with the exception of $(c)^1$, were read. *Proposed:* (1) that all Englishmen be prohibited to join with the Scotch; (2) that an East India Company be established by Act of Parliament: (3) that if any Scotch ship trading thither trade to England it shall pay; (4) that the laws be better executed in the West Indies; (5) that some of the Plantations, which do not immediately depend on the King, but in proprietors . . . . Then it was *agreed*, as a first head for a Bill, to prohibit all Englishmen and all traders in England to join with the Scotch Company, under penalties; that the subjects and inhabitants of this kingdom be discouraged under severe penalties, &c. as in L. J. Then *moved*, that a discouragement be put upon all English and Irish seamen and shipwrights from being assistant to them under severe penalties, and upon any ships belonging to the Scotch Company, if they come into any port of England; and that all builders in England or Ireland be prohibited from building ships proper for that service or navigation. *Agreed to. Proposed* to establish an East India trade in England by Act of Parliament, with such powers, privileges, and immunities as may obviate the inconveniencies that may arise by the Act lately passed in Scotland. Then the House was resumed and report was made as in L. J. The Commissioners of Customs were this day ordered to give an account with respect to the Plantations, (L. J., XV. 619), and on

* Here occurs the following cancelled entry in the MS. Min. "*Moved*, that a day may be appointed to receive what may be proposed in order to a Union between England and Scotland."

the 30th they were ordered to attend on 3 Jan. in pursuance of that Order, and a further Order was made directing them to make a Return of the Exports and Imports of the Trade (*ib.* 623–4.)—Accordingly on 3 Jan. they were called in and delivered several papers (Papers *g* and *h*) pursuant to the two Orders of 30 Dec. (L.J., XV. 628. MS. Min.) These were referred to a Select Committee (L.J., XV. 631–2) which sat on 8 Jan. The papers were read. *Sir Robt. Southwell* and *Mr. Clarke* were called in and asked why the Officers in Carolina, &c. had not sufficient encouragement for putting the Acts of 12 and 15 Car. II. in execution; and why they did not apply to the Council or Lords of the Treasury for their letter to the Governors, &c.; and whether they think not such a letter would be more effectual than their own letter (Paper g^2)? *Answer:* The officers where the proprietors are are so hampered with their partial proceedings that our surveyor is not able to cope with juries and courts, &c. He proposed the sending for the proprietors and admonishing them; and added, We are now preparing a Bill for remedying a great many things which the former Acts are short in. Our letter is grounded on the authority of the Law. The Treasury, if we had applied to them, would have left the writing the letter to us.—They are told they will do well to prepare the Bill mentioned by them with what convenient expedition may be; and that they have been wanting in not applying to the Treasury, and in thinking their own letter would be sufficient. Then it was *Ordered*, That the Commissioners of the Customs do with all convenient speed bring to their Lordships the total of every manufacture exported or imported for every year (by itself) for the last three years, and that they thereby show from or to what country or place the said manufacture was so exported or imported; which may be done without transcribing their books. Report as in L. J., XV. 634, ending "and the said account to be laid before this house if sitting." (Com. Book).—On 16 Jan. the Commissioners of the Customs are called in before the same Select Committee. *Sir Robt. Southwell* gives in a Report from the Commissioners, with two papers annexed, which are read (Papers $(i)^1$, $(i)^2$ and $(i)^4$). Being asked whether the House of Commons have not at any time had such account of the balance of trade as is now desired, he says in 1674 there was a balance made up of what related to France only. This they had by tradition. The desired account for the time past cannot be had, but may be for the future. They deliver in several specimens of Accounts of Importations and Exportations, which are perused (Papers $(i)^3$, $(i)^5$, $(i)^6$ and $(i)^7$). They withdraw. After some time they are called in again and directed to proceed in the work expected from them in pursuance of the Order; and that they give as particular account as they can for the time to come, with the least prejudice to the Merchants that may be. They are also told that, they having acquainted the Committee that they were preparing a Bill for strengthening the Act of Navigation, they hope they are not forgetful of it. They say the Bill is actually now in Mr. Attorney's hands, in order to be presented to the Parliament; and that they have applied to the Lords of the Treasury for letters to the Governors of Plantations, &c., and the King has referred it to a Committee of Council, and they are to attend them to-morrow. They withdraw. *Ordered* to report as in L. J., XV. 646. (Com. Book).—On the same day the Merchants trading to the East Indies and the East India Company were called to the Bar of the House, and the Order of the 13th (L. J., XV. 639) was read to them. *Sir Benjamin Bathurst*

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what the sum is. The *East India Company* and *Merchants* were called in and told the opinion of the Committee of 28 Jan., and to lay before them what stock is neeessary for this trade—what or how great a stoek is neeessary. The *Merchants* desired time to eonsider of it. The *East India Company:* 1,500,00[0]*l.* is established, or two millions. If there is opportunity there may be more. Asked whether that trade can employ more than two millions. *Merchants* answer, as that trade may be extended, they may employ more. *East India Company:* This refleets on us. *Mr. Shepheard* heard: I sent a ship last year to feteh pepper from the island of Maio. *Mr. Sedgwiek* heard: We have 150,000*l.* of goods sometimes in our warehouse. *Mr. Harrison* desires a week's time. Merehants withdrew. *Moved* to give time until Tuesday next to hear the Merehants. Report and Order as in L. J., XV. 657. Then the *Merchants* were ealled in and told the Lords allow them time to eonsider of what answer to give to the question asked them until Tuesday next.—On 4 Feb. the parties were again called in before the C. W. H., and asked what sum of money is necessary for that trade. The *Merchants* say they are of opinion 3 millions is neeessary, and give their thoughts in the matter. Asked by East India Company how this money shall be employed, *Mr. Harrison* heard to this matter. The *East India Company* heard to this. A power to be given by Aet of Parliament to eall in sueh a snm of money as they shall have oeeasion, in eases of losses, as this year. *Several others* heard. *Sir James Houblon* heard for East India Co. as to the prohibition of ealieoes in Franee. Asked if they had anything more to offer, the *East India Co.* heard. *One* heard that has been in the South Seas, as to the pepper trade. The eountry is very well known. The *Merchants* heard also: If they have less than 3 millions, the trade will lessen; and then we may vie with all nations. Asked *Mr. Shepheard*, How mueh proposed you to vend in one year, suppose the stoek were 3 millions? I am of opinion we might very well sell 300,000*l.* worth. Merehants &e. withdrew. *Proposed* That three millions be the joint stoek. That the stoek be at least 1,500,00[0], and not exeeeding two millions. That a stoek not exeeeding three millions may be subseribed, that may be for the earrying on the East India trade. That a joint stoek of three millions may be subseribed for the earrying on the East India trade. That the books shall lie open till there shall be a subseription of three millions, whieh whole sum, or as mueh thereof as the subseribers to the joint stoek shall judge neeessary for the earrying on of the East India trade, shall be employed. This last motion *agreed to.* Report and Order as in L. J., XV. 660. See also *ib.*, 661.—On 11 Feb., in C. W. H., the East India Co's Charter, dated 28 Sept., 6 Will. & Mary, was read, and report made as in L. J., XV. 666. (MS. Min.)—On 12 Feb., before the Seleet Committee appointed the day before (L. J., XV., 666), the regulations of the 1st Charter are begun to be read. A time to be appointed how long the books shall lie open. The regulation for the books lying open till a sum is subseribed is read. No person by it is to subseribe more than 10,000*l.* To take an oath that the money subseribed is his own proper money. A third part of the sum subseribed to be paid at the time of subseription; the remainder at a time to be appointed on elosing the books. Every 1,000*l.* to have a vote; and if he have more than 10,000*l.* he shall have but 10 votes. No snm less than 1,000*l.* to have a vote. A person not free of [the] Company to pay 5*l.* admission, and the oaths to the Government and the oath to the Company to be taken. The Court of Committees to eonsist of

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persons having at least 1,000*l.* stock, and who shall have taken the said oaths. The Governor and Deputy to have each 4,000*l.* stock, and the 24 of the Committee to have each at least 1,000*l.* stock, and the said Governors to be chosen out of them. On the death of the said Governor or Deputy or Committees, a new election [and] choice to be made, who are to take the said oaths. A power to make bye-laws not repugnant to the laws of the land, the Governor being present, the same to be approved by a General Court. No permission ships to be granted, on forfeiture of the Charter. Nothing (exeept saltpetre to the King) to be sold by private contract, and no lot to be set up exceeding 500*l.* 100,000*l.* at least of English goods to be yearly exported to the East Indies. 500 tons of saltpetre for His Majesty's use when required, paying 38*l.* 10*s.* per ton for the same in time of peace and 45*l.* in time of war. And all dividends to be paid in money. An accountant to keep a book to lie open for all persons concerned to look into. The Charter to be for 21 years; and a year before expiration thereof new subscriptions may be made. That, if the Company shall not conform to such regulations as the King shall make within one year, then this Act to be void. (See L. J., XV. 724–5.) The other Charter is read. *Ordered* that the Charter dated 7 Oct. 1693 be produced at the next meeting by the East India Company. Every person subscribing 1,000*l.* shall, as often as required by any one member, swear that the money subscribed by him is not in trust for any other person. No foreigner to be of the Company. The Governor, Deputy, and Committees to swear that he hath in the stock, at the time of his election, the sum required by the Charter dated 9 Nov. No Governor nor Deputy to serve above two years, nor to be chosen again within two years. There shall not be continued above 16 of the old Committees longer than a year. The Company may empower the Captains and Seamen employed by them to bring home such goods as the said Company shall license. That account be yearly given to the Council of the value of the goods exported the preceding year by the Company. None of the goods exported to be reimported into any of His Majesty's kingdoms. A General Court to be called when required by six members that have votes, and not to be broken up but by the consent of the majority. Private Committees to be appointed by the General Court. No money to be lent but by the General Court. No member of the Company to dispose of any part of the stock without consent of a General Court. The cash of the Company to be kept at such place as the Court shall direct. No goods to be delivered till the money be actually paid or security given. The cash to be kept by three of the Committees. No sum shall be disposed without account, unless where previous direction is first given. The duty of the Customs to be paid at once if the King require it, allowing 4*l.* 10*s.* for a year, and for the additional duty 6*l.* 5*s.* A power of revocation on three years' warning (cp. L. J., XV. 724–5). *Ordered* that Mr. John Pollexfen and Mr. Daniel Shelden attend the Committee on Saturday next. (Com. Book).—On the 15th Feb. the Select Committee were informed that Mr. Daniel Shelden was so very infirm that he could not attend. *Mr. John Pollexfen* is called in and asked whether any, and what, of the commodities that are brought from India are prejudicial to the manufactures of this kingdom. He says the East India trade is now different from what it was. They formerly brought home no manufactures, but all spices. Since '70 they [have] brought manufactures, as cabinets, china wares, &c.; and this in return of our moneys. The cloths sent to India hinder the like quantity that would

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be sent to Turkey. 500,000*l.* yearly in bullion goes to the Indies. They bring nearly 400,000*l.* of manufactured goods yearly, which hinders our manufactures which would otherwise be made here. The manufactured goods in India cost not 1 in 20 they would cost here. If this war had not stopped the bringing in East India goods, we should by this time have seen everybody dressed in them. Companies have bodies, but it is said they have no souls; if no souls, no consciences. We send the Indies a million yearly, and bring none back. This trade is carried on by the exportation of money. The Indians will take any nation's money that comes to them. They exclude none. He gave in a paper of manufactured goods imported from the Indies. The Dutch sent no money till of late. They are masters of the Spice Islands. Formerly their hangman wore calico, to discountenance the wearing of it. The Dutch procure India goods by the barter of spices, &c., going from port to port. Mr. Marshall delivers in the Charter [of 7 Oct. 1693] required the last day. The members of the *East India Company* that attend being called in and asked whether any, and what, of the commodities that are brought from India are prejudicial to the manufactures of this kingdom, say, nothing imported from thence prejudices the manufactures of England, but wrought silk has been complained of. The price of lacquered goods made here is thrice as dear as we can at any time afford them for from thence. We carry out pieces of eight and bullion, and 100,000*l.* yearly in woollen manufactures. There has been sent out 300,000*l.* a year in bullion, which, with 100,000*l.* in manufactures, will maintain (?) the trade well. The Dutch carry out money, but they carry also spices. We carry iron, cordage. They withdrew. Then Mr. Pollexfen and Mr. Shelden were ordered to submit written answers to the above question, and what further information they can give in relation to the East India trade. (Com. Book).—On the 18 Feb. *Mr. Pollexfen*, being called in, delivers in writing his paper, as required by the last Order (Paper *p*). He says Mr. Shelden is so ill and full of pain that he is not able to do any business. *Mr. Marshall*, one of the East India Company, says a Committee is appointed to attend, and he hopes they will be here presently. Mr. Pollexfen's paper (*p*) is read. *Mr. Pollexfen* says this trade has the worst foundation of any trade. It exports nothing considerable but bullion, and imports little but manufactured goods. The interlopers manage the trade thither in the same manner as the Company. It is impossible to carry on the India trade otherwise than by silver. From '75 to '85 is entered in the Custom House books in gold &c. above 4,000,000*l.* In one year was exported 1,300,000*l.* in money to the Indies. The *East India Merchants* [? Company] are called in and told they may have a copy of Mr. Pollexfen's paper, and may answer. Asked what commodities imported they export again, and what the value of them may be, answer: There is nothing imported by us but is exported again. Two thirds in value is exported. This is to be made out by the Custom House books. Our books will not show it. We sell them here, and the buyers export them. What we export is all profit to the nation. They pay the freight, first cost, Customs, and profit. We always exported more than the prime cost. They withdraw. They are ordered to answer Mr. Pollexfen's paper on Friday.—On 21 Feb. the East India Company are called in. *Mr. Marshall* acquaints the Committee that the Company have, ever since the last meeting, been attending the House of Commons, and so have not yet had time to prepare an answer

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(No entry in L. J.)—On 17 March Mr. Pollexfen and Mr. Shelden deliver in their separate observations on the East India Company's paper (*s*), which are read (Papers *t* and *u*). Then the East India Company also is called in, and the papers are read again. Mr. Shelden has his paper returned to him to amend, and he delivered it in the following day, when it was read. On the 18th Mr. Pollexfen desired that in the last article of his paper "*Thomas*" might be inserted instead of "*Mary*," which was done. The evidence given by the parties and Capt. Gifford on the 17th and 18th March is set out in Paper (*v*) below. (Com. Book.)—On 20 March it was ordered to report the several regulations for an East India Company that were agreed on by the Committee on the 4th, and also the estimate given in by the Company of their stock, and the observations made thereon by Mr. Shelden and Mr. Pollexfen (Papers *s*, *t*, *u*); to leave the time for the continuance of the Act to the House; as also for the House to set the value of the stock of the present East India Company (Com. Book).—The Committee reported on 1 April, when Papers *o*, *p*, *q*, *r*, *s*, *t*, *u*, and *v* were reported. (MS. Min.) The consideration of the Report was adjourned to 7 April, but the matter dropped.

The papers are as follows:

(*a*) 5 Dec. An account from the Royal African Company of England, relating to the Scotch Act. The trade of Africa cannot be carried on but by maintaining of forts and castles in that country of sufficient strength to defend and protect the natives trading with the English from the violence of their neighbours, and also to defend the English from any abuses or violences the natives or other nations shall offer to them, which charge cannot be defrayed but by a joint stock, exclusive to others; which the Scotch by this Act having established, they will be enabled to defray the same, and consequently engross the said trade from the English, unless the English have the like powers. By reason of the freedom from Customs and other great advantages given to the Scotch by the said Act, they are able to trade much cheaper than the English, and therefore trading persons will naturally remove themselves and their effects thither, which will tend much to the impoverishing of the English nation, trade ever increasing in all countries according to the encouragement it receives from the Government in such countries. By reason the Scotch have by the Act power to make reprisals on the English for any damage they shall judge the English shall do to them, and the English not the same power to right themselves, the Scotch have a manifest advantage above the English herein. This Scotch Act with respect to the trade of America is so nationally pernicious to us that, when once they have colonised themselves in Plantations in America, our commerce in sugar, cotton, wool, skins, masts, &c. will be utterly lost; for their privileges are such that their nation must be the magazine for all those commodities, and the English Plantations and the traffic thereof lost to us, and the exportation of our own manufacture yearly decreased; and thereby this nation will lose the benefit of supplying foreign parts with those commodities, the want of which, in order to balance our trade, by reason of our losses at sea, is too sensibly felt; and the Act of Navigation, which was designed for the benefit of this nation, will be useless to us. *Signed* (By order of the Royal African Company) Saml. Heron, Secretary. [Delivered this day, and read 9 Dec. and again 20 Dec. MS. Min.].

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(*b*) 5 Dec. A paper delivered by Mr. Doddington from the East India Company. The Governor and Company of Merchants of London trading unto the East Indies submit the following particulars, relating to the English trade to the East Indies, being what the shortness of the time will admit of. By reason of the great advantages granted to the Scotch East India Company, and the duties and difficulties that lie upon the said trade in England, a great part of the stock and shipping of the nation will be carried thither. By the power the Scotch have in their Act to make reprisals for damage done them by land or sea, they may find pretences enough to assume that power to annoy the English, which the English have not to retaliate upon them. The trade of India not being to be carried on to the advantage of any nation otherwise than by a joint stock exclusive to all others, as appears, not only by all the companies established in Europe, but also by the opinion of the Parliament in Scotland in this very Act, that Company will thereby have much the advantage of the English in the carrying on of that trade and defraying those charges that do necessarily accompany the maintaining of it, since they have thereby a liberty of excluding all interlopers, upon penalty of forfeiting one-third of their ships and cargoes, which the said Company have power to seize by force of arms; whereas the English cannot prevent interlopers at present, as appears by the many now going out. Above all, the greatest inconveniency that will arise to this nation by the Scotch Act is that all the ships, vessels, merchandize, goods, and other effects whatsoever, belonging to the said Company, shall be free from all manner of restraints or prohibitions, and of all Customs, taxes, cesses, supplies, or other duties imposed, or to be imposed, by Act of Parliament, whereas there are very high duties charged upon the English; by which means Scotland is made a free port for all East India commodities, and consequently those several places in Europe which were formerly supplied from England will be by them supplied much cheaper than can be done by the English, and thereby this nation will lose the benefit of furnishing foreign parts with these commodities, which has hitherto been a great article in the balance of our foreign trade, and the English navigation (of so great import to this kingdom) will be likewise much diminished. Moreover, Scotland being made a free port, as aforesaid, the said commodities will be unavoidably brought by the Scotch into England by stealth, both by sea and land, not only to the prejudice of the English trade and navigation, but also to the great loss of the King in his Customs. The members, officers, servants, or others belonging to the said Company are, by the said Act, made free denizens there, and also free in their persons, estates, and goods employed in the said stock and trade, from all manner of taxes, cesses, supplies, excises, quartering of soldiers, or levying of soldiers, or other impositions whatsoever, and the seamen in their service secured from being impressed, which is a great encouragement for English merchants, seamen, and others to transplant themselves thither; from which differences of privileges between the two nations it may reasonably be concluded that divers, both merchants and seamen, will accordingly remove themselves, their families, and estates into the kingdom of Scotland, and thereby carry away a considerable part of the stock and hands that support the trade of this nation. The advantages granted

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by the Scotch to their Company seem so evident, that not only a great many of our countrymen have subscribed large sums for the carrying on that stock, and thereby, we humbly conceive, have, as much as in them lies, acted against the interest of their own country, but also some of our present adventurers have done the like; and how far the same is a violation of their oath taken to this Company we humbly submit to your Lordships, for which we can give no other reason than the prospect of the great advantage they shall have in joining with the Scotch Company. We humbly apprehend that, if the Scotch Company be carried on with the stock and assistance of the English, little or none of our English provisions or manufactures will be made use of by them in carrying on their trade, but they will immediately endeavour to set up all our manufactures in Scotland, and thereby not only supply India, but other markets, with them, and inevitably lessen our exportation of the English manufactures. By comparing the grants of all European crowned heads and States for a joint East India Stock with this of Scotland, we cannot find but that they have granted them all the privileges, powers, and protections that any one or all of them have, which must needs give them the advantage of this kingdom, both in India and Europe, and at last utterly impair the trade thereof. *Signed* (By order of the Governor and Company) Ro: Blackborne, Secy. *Dated* East India House, 5 Dec. 1695 [Delivered this day and read on the 9th and again on the 20th. MS. Min.].

(*c*) 12 Dec. Papers delivered at the Bar this day in obedience to Orders of 9 Dec. (L.J., XV. 608), as follows :—

(*c*)[1] 12 Dec. A list of all the persons living in England who are proprietors in the joint stock of the Company to Scotland trading to Africa and the Indies, together with the preamble to the book of subscriptions, endorsed "Proœmium," being the draft Articles of Association, as follows :—At London, the 6th day of November 1695. Pursuant to an Act of Parliament of the kingdom of Scotland, entitled Act for a Company trading to Africa and the Indies, we underscribed do, each of us for himself and not one for another, become obliged for the payment of the respective sums by us severally subscribed, subject to the following rules and conditions, viz. :—That the joint stock, or capital fund, of the said Company do consist of £. 600,000 sterling (six hundred thousand pounds sterling); whereof one quarter part shall be paid at the time of subscription to two or more of the persons named in the Act of Parliament, and the remainder thereof in such parts and proportions, time and manner, as the said company shall from time to time direct and appoint. That, if any of the subscribers or proprietors of the said stock or capital fund shall not pay or cause to be paid the remaining part of his, her, or their subscriptions in such time, manner, parts, and proportions as shall be from time to time appointed by the said Company, or in case they or any of them shall become indebted to the said Company any other ways howsoever, the part or share of stock in the said fund belonging to such person or persons shall from thence forward be and remain to the use of the said Company, to be by them sold and disposed of for paying and satisfying such

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debt so becomc due unto them. * That in regard Mr. William Paterson, and others concerned with him, have been at great pains and expense in making several considerable discoveries of trade and improvements in and to both Indies, and likewise in procuring needful powers and privileges for a Company of Commerce from several foreign princes and States, and for which he and they have contrived, suited, and designed the said Company, in consideration whereof it is hereby agreed that the said William Paterson, his executors, administrators, or assigns, shall out of the first payment have and receive two per cent. of the money to be subscribed in the said capital fund, as also three per cent. of the issues, profits, and products of the said fund, for the space of one and twenty years, which shall be redeemable for two per cent. more of the said capital fund any time in five years. That the government, management, power, and disposition of the said joint stock or capital fund, and other matters, things, and effects whatsoever, of or belonging to the said Company, shall in all times hereafter be and remain in a Court of directors, consisting of the persons named in the said Act of Parliament, together with such others as shall be proprietors of the respective sums of one thousand pounds or more in the said joint stock or fund, and who shall likewise be deputed in writing by such other proprietors therein as, including such thousand pounds sterling or more, shall complete the sum of twenty thousand pounds sterling thereof; provided that none be admitted to depute more than one person for one and the same sum or proportion of his stock. And, in case the full number of fifteen persons be not so deputed by the stock in one month after one moiety thereof shall be subscribed, or if the full number of thirty persons be not so deputed in one month after the whole shall be subscribed, in either of the said cases the Court of directors for the time may, by majority of votes signified by scroll and scrutiny, complete the said numbers or either of them. And it is hereby declared and understood that the persons named in the Act of Parliament, or the survivors of them, are, were, and ought to be a complete Court, until others be added unto them in manner aforesaid; and that the manner of completing the numbers and continuing the succession of such fifty directors, the appointing the times and places of meeting, the quorum of persons, the constituting and empowering of committees and sub-committees of their own number, fixing of servants, settling of fees and salaries, and all other matters and things relating to the said Company, shall be ordered, fixed, and settled in the constitutions to be made by the said Court of directors, and that every director or member of the said Court, and all others concerned in the said Company, be concluded by and subject unto such elections, successions, scrutinies, censures, deprivations, disabilities, ordinances, and rules, as shall be made and contained in such constitutions. That the said joint stock and capital fund shall be, remain, and continue subject unto all such further and other rules, conditions, and qualifications, and to be used, governed, ordered, and disposed of as the said Company shall from time to time direct and appoint, pursuant to the said Act of Parliament of Scotland. (Two papers.) [Ordered on 9th Dec., and delivered and read this day. MS. Min.]

* The Clause following down to the words "five years" is added at the end of the Paper.

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(*c*)[2] 12 Dec.—Paper delivered from the Commissioners of Customs this day. The Commissioners observe, in general, That the Act for encouraging of Shipping and Navigation in Scotland in the year 1661 being by this late Act rescinded and dispensed with for 10 years, and a freedom thereby granted to this Scotch Company from all manner of Customs and other duties imposed, or to be imposed, by Act of Parliament or otherwise during the space of twenty-one years, must in consequence have a very fatal influence upon the trade, navigation and revenue of Customs in England. And, if it may not be supposed that an Act, which in its consequences may endanger the good correspondence which is necessary to be preserved between the two kingdoms, may be repealed, they propose, as the best expedient to remedy the inconveniences by the said Act, that there might be such an establishment of those trades liable to be injured thereby as may give encouragement to the people and inhabitants of England to employ their stocks and estates for the carrying on those trades to the best advantage; and, on the other side, that the subjects and inhabitants of this kingdom be discouraged, under severe penalties, from engaging in the stock or management of the said Company. As to the West India trade, with respect to his Majesty's English Plantations, the Acts of Trade and Navigation do, in great measure, provide for the security thereof; for that, as the laws of England now stand, none of the enumerated commodities, as tobacco, sugar, cotton-wool, indigo, ginger, fustick, or other dyeing wood, can be shipped at any of the said plantations until sufficient security be first given, in the penalty of 1,000*l.* for every ship or vessel under 100 tons burthen, and of 2,000*l.* for every ship or vessel of a greater burthen, with condition to bring the same to England, Wales, or Berwick, and there to unload and put the same on shore, the danger of the seas only excepted, in such shipping as is provided for by the said Acts. Nor can any European goods be exported to any of the said Plantations but what shall be laden in England, Wales or Berwick, and in ships duly qualified and navigated as aforesaid, under the penalty of forfeiture of ship and goods, except salt for the fisheries of New England and Newfoundland, wines of the growth of the Madeiras and Western Islands, or Azores, and servants or horses from Scotland or Ireland, and provisions of the growth or production thereof, respectively. But it may be further necessary that the Governors in the respective plantations, and the several officers employed under them, be awakened on this occasion to put the aforesaid laws in a vigorous execution; and, moreover, that a certain number of vessels of competent force be appointed to cruise on the coasts of America and elsewhere, with suitable instructions to the commanders for seizing, and bringing in as prize, all such ships and vessels as shall be found trading in contempt of the aforesaid laws, or any of them. *Signed* Rob[t]. Clayton, J. Ward, Robert Southwell, Walter Yonge, Ja: Chadwicke, Sam: Clarke. *Dated* Custom House, London, 12 Dec. 1695. [Delivered and read this day, and on 20 Dec. MS. Min.]

(*c*)[3] 12 Dec.—East India Company's paper. It having been universally practised, by all European nations using the trade to the East Indies, to carry it on by a joint stock, and it having been found by experience that, the greater privileges and immunities are granted to the subjects of any nation for carrying

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on any particular trade, such trade will inevitably fall into the hands of that nation, the Company conceive the most effectual, if not only, remedy to prevent the inconveniencies to England which may arise by that Act as to the East India trade, is to establish by Act of Parliament the Company and joint stock for the trade to the East Indies, with such privileges and immunities as shall be found consistent with the interest and present circumstances of this kingdom. *Dated* East India House, this day, and *signed* (By order of the Governor and Company) Ro: Blackborne, Secretary. [Delivered and read this day, and on 20 Dec. MS. Min.]

(*c*)[4] 12 Dec.—The Hamburgh Company's paper. They humbly conceive that an effectual prohibition of all Englishmen, and all others residing within this kingdom of England, from being concerned in or with the Scotch East India Company might be a remedy. [Delivered and read this day and on 20 Dec. MS. Min.]

(*c*)[5] 12 Dec.—Mr. Gardner's paper. He suggests, as to the East India trade, (1) That the trade from England may be made more easy and diffusive, and, in order thereto, that it may be permitted to trade to the East Indies from all ports, and by all persons, in England. (2) That the whole duty paid on East India goods may be repaid on exportation. (3) That no English nor Scotch, nor any other person residing in England or Ireland, may be permitted to be concerned in the said Scotch Company, on severe penalties. (4) That all ships belonging to Scotland, and trading by virtue of the said Act, which shall put into any port in England or Ireland, bound out or home, may be obliged to pay 25 per cent. to the Crown, or to the East India Company of England, before they are permitted to sail again. As to the West India trade, That the danger is not yet so near, and may very easily be prevented as soon as it shall be seen where they intend to settle, and in the meantime it will be some restraint (i) to enact, as above, that no person residing in England shall be permitted to be concerned, directly or indirectly, in the Scotch Company, (ii) that they shall receive no relief nor assistance abroad from any English Colonies or subjects. *Signed* John Gardner. [Delivered and read this day, and on 20 Dec. MS. Min.]

(*c*)[6] 12 Dec.—Paper from the Royal African Company. They offer that the trade to Africa, which is in a particular manner of very great advantage to England, the goods carried thither being only the manufacture of this kingdom, and the returns made for the most part in gold, elephants' teeth, beeswax and dyeing wood, cannot be carried on but by maintaining of forts and castles in that country of sufficient strength to defend and protect the natives trading with the English from the violence of their neighbours, and also to defend them from any abuses or violences the natives, or other nations, shall offer to them. Which charge they conceive cannot be defrayed but by a joint stock (exclusive to all others), which the Scotch by this Act having established, they will be enabled to defray the same, and consequently engross the said trade from the English, unless the English have the same privilege. For whatever nation hath

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forts and castles on any river or place in that country doth always prohibit and hinder any other people or nation to trade within the territories belonging thereto. And therefore the Dutch and all other nations have established companies and joint stocks for the African trade, exclusive to others, with powers and privileges sufficient to enable them to maintain forts and castles there. And if the Scotch had not created a Company exclusive to others, they conceive their other privileges granted in the said Act would not have given their Lordships such apprehension of mischief to this kingdom as their Lordships are now apprehensive of. They therefore conceive that the proper and only remedy to prevent those great mischiefs that must otherwise attend the trade of England, if they go on to enjoy these privileges as to the African trade, is to establish a Company with such powers as by their Lordships shall be thought proper, exclusive to all others, whereby to enable them to maintain the said forts and castles, without which the said Company do offer to their Lordships that they do find, by manifest experience, it is absolutely impossible to preserve the said trade to England. *Signed* (By order of the Royal African Company of England) Sam: Heron, Sec^ty^. [Delivered and read this day, and on 20 Dec. MS. Min.]

(*d*) 13 Dec.—Paper delivered this day by the Jamaica Merchants. (MS. Min.) For the trade of Africa and the West Indies, it will be a considerable time ere the Scotch Act can affect them, and the remedies to prevent any mischiefs that may accrue to those trades by the said Scotch Act may be most properly applied, and with the best judgment, when we see what it is that that Company does offer at. The remedies that occur at present are these. For Africa:—That the trade to Africa may be open and free, or in a regulated company like that of Turkey, wherein every trader contributes to the public charge according to the proportion of his trade, whereby negroes will be sold in the West Indies on easier terms, and so all the commodities from thence may be produced cheaper, and by this means all the ports and places in Africa will be so plentifully supplied with all manner of goods that the Scotch Company will find little encouragement to engage in that trade, especially it being considered that the English, having so many plantations, when they miss of gold and teeth (having proper cargoes aboard), can always meet with negroes, which they can always dispose of in the English plantations, especially at Jamaica, an island very convenient for the Spanish trade, from whence the Spaniards supply themselves with negroes, paying for them with gold and silver. These are such advantages above the Scotch that that Company can make no great profit by the trade of Africa. And for the West Indies:—The productions of all the plantations are so very cheap in times of peace, that, though all the difficulties of the first settlements are now over, our sugar works do not frequently produce above 5 per cent. upon the capital laid out upon them, and the same may be said of indigo, cotton, and ginger; that many planters have sold their sugar works for one-half of what they cost. When we began our plantations, the Portuguese in Brazil were the chief makers and vendors of those commodities; but that government laying such high customs, not only upon what they imported, but exported, made sugars,

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&c. so dear that the great profit the English planters then made gave the first rise to our plantations, and in a great measure lost the trade to Portugal. The best way to prevent any mischiefs from the Scotch Act is to make the trade as easy as may be, and particularly, if hereafter the Scotch make any settlement in the West Indies, that then, whereas upon exportation we now draw back all the several duties, except one-half of the old subsidy, which is no great matter, that that half may be drawn back also. *Signed* Gilbert Heathcote, Bartho : Gracedieu, Agents for the Island of Jamaica. [Delivered this day, and read on 20 Dec. MS. Min.]

(*e*) 13 Dec.—The Leeward Islands paper, delivered this day. (MS. Min.) Remedies offered by the Leeward Islands Merchants. (1.) That all persons, English, or other inhabitants of this kingdom, be, upon severe penalties, forbid directly or indirectly to have any stock or interest in the Scotch Company. (2.) That all the duties of East India goods, paid or secured to be paid at the importation thereof, be repaid on exportation. The several duties are now all drawn back except half the subsidy, which is about two and a half per cent., and amounts not to any great sum in the year ; but, if this be returned also, it will set us upon the level with the Scotch in the foreign markets. (3.) That the trade to India be made as diffusive as possible, either by declaring it a free trade, or by erecting a regulated company (as is the Turkey), maintaining by the contribution of their own traders an ambassador at the court of the Great Mogul, and consuls in the principal ports, by which the English and their effects will be preserved and protected, as they have all along been in the Ottoman Empire, with an inconsiderable charge to so vast a trade. For there can be no greater encouragement given to the Scotch Act than to keep the trade to India straitened. Nor would it consist with the justice of their Lordships to prohibit the freeborn subjects of England to engage themselves in the Scotch trade to India, and at the same time not to suffer them to trade thither from their own native country. And, whereas it is commonly objected that many buyers will enhance the prices of the commodities in India, the manufactures of India consist chiefly of cotton or of silk, or both ; cotton is sowed and gathered in less than nine months. There is land enough to produce a thousand times more cotton than is now in one year, and they want no hands to make the cotton into calicoes, if they can have vent for them. The same is to be said of the silk ; for one silkworm produces hundreds, and hundreds will produce thousands, if the inhabitants can find their account in them, as hath clearly been evidenced by Cassambaser, a town in Bengal, which some years since made but four thousand bales of silk a year, upon merchants buying up what they brought to market, have now multiplied their silk to eighteen thousand bales a year. And what was told to one of our English merchants lately in India—who, at his eating a chicken, said to the Banyan that he was beholden to their religion that he had a chicken so cheap (which cost but a halfpenny), because they eat none ; the Banyan answered, You are mistaken, Sir, for, did we eat chickens, every body would breed them and they become much cheaper—is most true as to the commodities and products of that country. By enlarging the trade to India greater quantities of our English goods will be exported, and more of theirs brought home, which

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will make them as cheap as formerly they have been, and leave little or no inducement to the Scotch to seek after that trade. *Signed* Sam. Shepheard, Ben : Rokeby, Streynsham Master, Jno : Shipman, Edw[d]. Littleton, Jos[h] Martin, John Lloyd, Rich[d] Harrison, Peter Godfrey, Rob. Raworth, Gilbert Heathcote. [Delivered this day, and read on 20 Dec. MS. Min.]

(*f*) 18 Dec.—Levant Company's paper, delivered this day (MS. Min.) They propose as remedies that a law prohibiting, as well all his Majesty's natural born subjects of England, as Jews or other foreigners residing in this kingdom, from being any ways concerned in their persons or estates, directly or indirectly, in the Scotch Company, or their trade to or from Asia, Africa, or America, under such penalties as shall be most conducible for the effectual preventing thereof. That the said law may further prohibit all the mariners and navigation of this kingdom, together with the shipwrights and other artificers relating thereunto, from all employments, or being aiding or assisting to the said Scotch Company in their trade into any parts of Asia, Africa, and America, aforesaid. That effectual care may be taken for the better preventing the exportation of wool and all other materials for the making of manufactures into the kingdom of Scotland, as well as into all foreign parts and places whatsoever. And that all due encouragement and protection be given to the trade of the nation into those parts of the world which the Scotch Act hath particular relation unto. *Signed* Gab : Roberts, Dep : Gov[r]. *Dated* London, 17 Dec. 1695. [Delivered this day, and read on 20 Dec. MS. Min.]

(*g*) 3 Jan. 1695–6.—Papers delivered this day by the Commissioners of Customs in answer to Order of 20 Dec. (L. J., XV. 619), as follows :—

(*g*)[1] 3 Jan. 1695–6.—Report from the Commissioners of Customs, as follows :—In obedience to your Lordships' commands signified to us the Commissioners of His Majesty's Customs by an order of the 30th ult[o], requiring us to attend your Lordships this day with an account in writing, whether, as the law now stands, there is a sufficient power in Carolina, Maryland, Pennsylvania, and other plantations where there are proprietors, to collect the King's duty there, and whether there be the same security to prevent the inconveniences that may arise to the proprietors and planters there from the Act of Parliament in Scotland for erecting an East India Company in that kingdom, as there is in other plantations. We do humbly acquaint your Lordships that Carolina, Maryland, Pennsylvania, with the three counties of Newcastle, Kent, and Sussex, and other plantations held in propriety by grants from the Crown, are subject to the Acts of Trade and other plantation laws, in like manner as are all the other of the English plantations. Yet we are doubtful whether the said plantation laws are so well executed, and the breach thereof so vigorously prosecuted, in Carolina, Pennsylvania, and the Jerseys and Rhode Island, as in the other plantations which afford better maintenance and encouragement to those who are employed under us in collecting his Majesty's duties and executing the aforesaid laws. But upon this occasion we have prepared a letter to be sent to the governors of the respective plantations in America by the first opportunity of conveyance, as was mentioned in our late report to your Lordships, which we hope will have that good effect as in great measure to

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prevent the mischiefs and inconveniences threatened to this kingdom from the Scotch Act with respect to the plantation trade, copy of which letter we herewith humbly present to your Lordships; and we are now taking care more particularly for the guard and security of those plantations, whether in proprietorship or otherwise, where the Scotch and other illegal traders may most likely expect to find the best opportunity and encouragement for carrying on their designs so directly tending to the diminution of his Majesty's Customs and the great detriment of the trade and navigation of this kingdom. *Signed* Robt Clayton, J. Ward, Robert Southwell, C. Godolphin, Walter Yonge, Ja : Chadwicke, and Sam : Clarke. *Dated* Custom House, London, this day. [Delivered this day, together with next paper. L. J., XV. 628. See also Com. Book, 8 Jan.]

(*g*)[2] 3 Jan. 1695–6.—Draft of circular prepared by the Commissioners of Customs, referred to in preceding and appended thereto, as follows :—Sir, There having been an Act lately passed in Scotland for erecting a Company to trade from thence to India, Africa and America, wherein many persons have interested themselves by large subscriptions, in order to a vigorous carrying on the trade from those parts, which, in time, may tend to destroy the trade and navigation of England, and carry it to Scotland, we did lately, in obedience to an Order of the Right Honourable the Lords Spiritual and Temporal assembled, lay before their Lordships in writing what we conceived the proper means to remedy the inconveniencies arising by the said Act. And their Lordships, with the Commons in Parliament assembled, having in an Address represented to his Majesty the great advantages thereby granted to this Company, and the obstructions this Act will unavoidably bring to the general trade of this nation, and particularly that, when the Scotch shall have settled themselves in plantations in America, our commerce in tobacco, sugar, &c., will be utterly lost, for the reasons therein mentioned, we do herewith send you copies of the said Act, with copies of our said report and of this Address, with his Majesty's most gracious answer to the said Address, as the best means to awaken and excite you to a vigorous execution of the several laws made in England for the security of the plantation trade and making this kingdom the staple both of the commodities of other countries and places for the supply of the said plantations. And as we hope that the said laws, and the orders and instructions which from time to time we have given in pursuance thereof to the several officers employed under us within your Government, will be sufficient to prevent the inconveniences and mischiefs which may arise from this Act, so we desire you will please, more especially at this time, to see that all and every of the said officers do strictly pursue their duties, according to the laws of England relating to the plantations which they have in charge from us, and our aforesaid orders and instructions, and give you an account of every ship trading within their respective districts, in the form and method prescribed by us. And it will most especially concern you to be very careful that the persons employed under you as Naval officers, for the taking of bonds and the giving out and taking in of certificates, be persons of known integrity, and that they be under oath and security for the faithful discharge of their trusts. On the other hand, that no officer within your government may pretend ignorance, or be imposed upon, in

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receiving or accepting forged certificates mentioning security to be taken by the Officers of the Customs in some port of England, Wales or Berwick, for the return of ships with their ladings to this kingdom, or other certificates for ships discharging their ladings from the plantations in some port of England, Wales, or Berwick, when, in reality, no such bonds have been here given, nor ladings here discharged, but the ships therein mentioned have gone directly to and from Scotland (of which we have many instances now before us). We shall, for preventing these frands and abuses hereafter, every three months, or as often as conveyance shall offer, send you an authentic and attested list of every ship or vessel, with the master's name, that hath entered in any port of England, Wales, or Berwick for any of his Majesty's plantations, and given security to return from thence with her lading, and a like list of every ship that hath discharged her lading from , and had a certificate thereof from any custom-house of England, Wales, or Berwick, in order to the vacating the security given with you. And, if any ship, pretending to come from England with a certificate of giving bond here, or a certificate of discharging her lading in some port of this kingdom for vacating the bond given to you, shall not be found in one of those lists respectively, according to the order and date of such certificate, you may conclude such certificate to be forged, and, as the case shall happen, it will be incumbent on you either to prosecute the bond as forfeited, or to seize such ship as shall presume to load or take on board any of the enumerated commodities by colour of such counterfeit certificate; unless it may so fall out that a ship shall arrive with a certificate from England before such list comes to your hands, whereby to discover whether it be a true or counterfeit certificate, in which case it will be advisable for you to take good security in the country for the carrying such of the enumerated plantation goods as she shall there load to some port of England, Wales, or Berwick. We likewise remind you, on this occasion, of the clause in the Act of Navigation made in the 12th year of the reign of King Charles the Second, which provides that no alien or person not born within the King's allegiance, or naturalized, or made a free denizen, shall exercise the trade or occupation of a merchant or factor in any of the plantations, on pain of forfeiture of all his goods and chattels, and we desire you to cause a due observation thereof within your government. And let the Commanders of his Majesty's ships of war, or others having commission from his Majesty, coming to , be furnished with copies of the instructions which we have heretofore purposely prepared and sent you, in pursuance of the said Act of Navigation, by which Act they are authorized to seize and bring in as a prize all such ships and vessels as shall be found offending contrary thereunto, for whose encouragement one moiety of the forfeitures, after condemnation, is thereby allotted them and their companies, to be divided and proportioned amongst them according to the rules and orders of the sea in case of ships taken prize. And, as by the Acts of Trade and Navigation the governors of the plantations are particularly enjoined, by solemn oath and under the penalties of being removed from their respective government, to do their utmost that all the matters and things therein contained shall be punctually and bonâ fide observed, according to the true intent and meaning thereof, so we expect you will particularly take care that no ships or vessels

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be permitted to import or export any goods or commodities to or from your Government but such as shall be duly qualified and navigated as thereby is directed, having a more particular eye and regard to those places which are most conveniently situated for the Scotch and other illegal traders to load and discharge at, as . And, withal, let none be accepted or taken as security with masters of ships but such as shall be persons of sufficiency and valne, and inhabitants on the place. It remains only further that we remind you of the Act of Trade, made in the 15th year of the reign of King Charles the Second, which provides that no European goods (except what are therein accepted) shall be imported into any of his Majesty's plantations, but such as shall be laden and shipped in England, Wales, or Berwick, and in ships and vessels qualified and navigated as therein is directed, under the penalty of forfeitnre of ship and goods. And every person or persons importing any goods or commodities whatsoever into any of the plantations is, by the said Act, to deliver to each respective governor, or the person authorized by him, within twenty-four hours after such importation, their names and surnames, and a trne inventory and particnlars of all such goods, together with the place or places in which the said goods were laden or taken in, under the like penalties of forfeiture. [Appended to preceding. See Com. Book, 8 and 16 Jan.]

(*h*.) 3 Jan. 1695–6.—Papers delivered this day by the Commissioners of Customs in answer to the second Order of 30 Dec. (L.J., XV. 624), as follows :—

(*h*)[1]. 3 Jan. 1695–6.—Report from the Commissioners of Cnstoms. In obedience to their Lordships' commands by the Order of the 30th of December, requiring them to lay before their Lordships in writing an accönnt of the exportations and importations of the Trade for three years last past, they state that, snppesing their Lordships intend a partienlar and distinet Accounnt of the several species of goods exported and imported, they ealled before them (1) as regards the imports into London, the Collectors, Receivers, and Examiners of the Inward Receipt of this Port, (2) as regards the exports from London, his Majesty's Five Searchers, and (3) as regards the outports, Mr. Lytcott, the Comptroller General of the Accounnts of the Customs, and asked them how long they would take to prepare the account required. Their answers are appended hereto, from whieh it will appear that it will be a work of time and labour. But they can very readily prepare an aceonnt of the prodnce of the Customs outwards and inwards npon those exports and imports, whether gross or nett or both, except for the last year, the accounts of which from the outports are not yet completed. *Signed* Rob[t]. Clayton, J. Ward, Robert Southwell, C. Godolphin, Walter Yonge, Ja. Chadwiek, and Sam. Clarke, and *dated* Custom House, London, this day. L.J., XV. 628. See also Com. Book, 8 Jan.

(*h*)[2]. 3 Jan. 1695–6.—Report from the Collectors, Receivers, and Examiners of the port of London to the Commissioners of Customs. The work reqnired, as regards the imports, cannot be performed with less than twelve able hands and in less than eight or nine months' time at least in the port of London ; and near as many hands would be required for the outports. The regnlar staff could not do it. *Signed* Wm. Waterson, Chr. Tower, Hen. Wolstenholme, Tho. Granger, E. Storey, and John Shend. [Appended to preceding.]

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(h)[3]. 3 Jan. 1695–6.—Report from His Majesty's Five Searchers to the Commissioners of Customs. The exports from London for the three years are entered in nine large folio books, about 700 folios each. The work could be done by nine men in six months. *Signed* Cha. Beauvoir, P. Bertie, Tho. Bates, J. Walker, Robt. Burton. *Dated* London, Searchers' Office, 2 Jan. [Appended to (h)[1].]

(h)[4]. 3 Jan. 1695–6.—Report from the Comptroller General of the Accounts of the Customs to the Commissioners of Customs. There are 50 outports, from each of which there is sent up every quarter a book of the receipt of the Customs and New Impositions, which for three years are 12 Quarter books for each port, being in all 600 Quarter books, which are by the Comptroller General of the Accounts of the Customs transmitted to the Auditor of the Imprests successively with each year's account of the Customs &c. The account of each particular commodity can be best obtained from Customs officers of each respective port. The books of some of the ports are very inconsiderable, but those of some others would require three or four days each to extract all the entries required. *Signed* J. Pope, Comptroller General, and *dated* Custom House, London, this day. [Appended to (h)[1].]

(i.) 16 Jan. 1695–6.—Papers delivered this day by the Commissioners of Customs to the Select Committee on the former papers (g. and h.) and read. (Com. Book.) They are as follows :—

(i)[1]. 16 Jan. 1695–6.—Report from the Commissioners to the Lords' Committee. In obedience to the Order of the 8th inst., requiring them to bring the total of every manufacture exported or imported for every year by itself for the last three years, showing from or to what country or place the said manufacture was so exported or imported (Com. Book of date), they had called for further reports from the officers who had already reported (see above), which reports are hereunto annexed, together with schemes for the manner of their intended performance. The work would probably not be completed this Session, and would in any case only give an approximate result, perhaps not within 40 per cent. of the real balance of trade. For by the Book of Rates there is but one duty on linen, which differs in value from 5 groats to 10s. per ell, and in thread there is a much greater disparity ; and wine of one country, from the meanest to the most valuable, pays the same duty. And, as the officers have had no other command or care upon them than that of the King's duty, so the merchant is generally desirous to keep the distinction of his goods secret, and that his neighbours might not know his particular stores. The officers have farther taken notice that the past year has afforded a greater exportation of cloth, baize, lead, tin, and other our native commodities, than ever was known in England. But, this resulting from the extravagant rate of guineas by which they were bought, the effect will be that we shall fall very short hereafter in exporting these commodities, till the foreign markets that are glutted have discharged their hands. And, if the gold brought in, which purchased these goods, were as exactly known as the goods may be, yet the unwonted accident in this case will not afford any judgment for the measure and balance of trade for the future. On the 13th inst. they

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received the Order of the House of the 9th (L.J., XV. 634). They were already preparing such an account as therein called for, and will press it on. *Signed* Robert Southwell, J. Ward, Robt. Clayton, Walter Yonge, Ja : Chadwick, Sam : Clarke, and C. Godolphin. *Dated* Custom House, London, 14 Jan. 1695. [Delivered, together with annexes $(i)^2$ and $(i)^4$, to the Select Committee this day, and read. Com. Book.]

$(i)^2$. 16 Jan. 1695–6.—Report from the Collectors, Receivers, and Examiners of the port of London to the Commissioners. They have further considered the matter, and submit a specimen of the account required (see next paper). It will take 8 or 9 months. *Signed* Wm. Waterson, Chr : Tower, Tho : Granger, Hen : Wolstenholm, Jon. Shend, and E. Storey. [Appended to preceding.]

$(i)^3$. The Collectors' specimen of an account of importations for three years. Holland. It is in book form, with blank columns under 229 headings of commodities, and concludes with a blank abstract of imports and exports. *Endorsed* as received 2 Jan. [Referred to in preceding, and delivered to the Select Committee and read on 16 Jan. Com. Book.]

$(i.)^4$. 16 Jan. 1695–6.—Report from His Majesty's Five Searchers to the Commissioners. They have further considered the matter. They cannot prepare an account of the exports of the several species of goods of our own manufacture to all parts of the world in less than four months, and it will take as long to prepare an account also of all certificate goods, viz. : foreign goods imported and afterwards exported, as it will the officers inwards to give an account of all goods imported. They submit a scheme of their designed method (see next paper), and pray the same, with their books, may be laid before their Lordships, to avoid any mistake. *Signed* Cha : Beauvoir, Robt. Burton, P. Bertie, J. Walker, Tho : Bates. *Dated* Searchers' Office, Custom House, London, 10 Jan. 1695. [Appended to $(i)^1$.]

$(i)^5$. The Searchers' Specimen of an account of exportations for three years. An account of the several species of goods shipped and exported to Holland from the Port of London, from 1st. Jan. 1692–3 inclusive to 1st Jan. 1693–4 exclusive, as appears by His Majesty's Books kept in the Searchers' Office, Custom House, *viz.*

Long Cloths	144¼
Short Cloths	221
Spanish Cloths, *alias* narrow listed Western Cloths	213½
Cloth Rashes	335¼
Northern dozen, Double	189½
Northern dozen, Single	89⅓
Kerseys	359
Penistones	68½
Woollen cloth in remnants per lb.	1850 lbs.
Tin, per cwt., qt 112 lbs. per cwt.	920 cwt.
Lead, per fodder	248 fod. 14½ cwt.
Pewter, per cwt.	99 cwt. 0 qr. 17 lbs.
Iron, per ton	332 tons 8 cwt.
Perpetuanes per ps. & lb. 330 ps. qt 4,100 lb.	
Stuffs per ps. & lb. 250 ps. qt. 4255 lb.	
Serges per ps. & lb. 360 ps. qt. 19,090 lb.	
Single Bayes, per ps.	365 ps.
Double Bayes, per ps.	565 ps.

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The rest of the return, which is in one continuous sheet, contains blank columns for 36 other commodities, and appended is the following note:—These, with the rest of the species of goods herein mentioned, with above 200 sorts of goods more of our own manufacture, besides goods formerly imported and since exported again, must be thus reduced for all ports of the world, as well as to Holland, before we can give an account in form as in the paper annexed, which we presume is what their Lordships require. *Endorsed* as received 2 Jan. [Referred to in preceding, and delivered to Select Committee and read on 16 Jan. 1695–6. Com. Book.]

(*i*)[6]. Abstract of above, so far as filled in, with the same heading. Referred to in the note on preceding, and appended thereto.

(*i*)[7]. Form of account wherein it is proposed the exportations and importations for three years from and into out-ports should be extracted, delivered to the Commissioners by the Comptroller General, to be sent to the several ports if approved. It is as follows:

From Michaelmas 1692 to Michaelmas 1693.

Portus Barnstaple and its members.

English Manufactures exported.

For Spain:

Perpetuanas	10,000*l.*
Serges	8,000
Barnstaple Bayes	500 ptts.
Minikin Bayes	450 ptts.
White Herrings	1,500 barr:
Woollen Hose	2,000 doz.

For Portugal:

Perpetuanas	7,500*l.*
Minikin Bayes	1,300 ptts.
Red Herrings	1,800 barr.
Tin, unwrought	85 ewt.

For English Plantations:

Beer	1,000 barr.
Biscuit	1,500 lbs.
Wearing apparel made up	120 suits.
Shoes	1,080 lbs.
Wrought Iron	750 ewt.
Barrels of Butter	150
Cheese	2,000 lbs.

For Holland and Flanders:

Woollen Hose	50 doz.
Serges	880 lbs.
Barnstaple Bayes	250 ptts.

For Denmark:

Woollen Hose	150 doz.
Woollen Cloths	75

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For the Straits :

Barnstaple Bayes	1,500 ptts.
Minikin Bayes	850 ptts.
Red Herrings	1,000 barr :
White Herrings	550 barr :
Worsted Hose	300 doz.
Conges dous	500 qtalls.

For Newfoundland :

Malt	20 qs.
Pease	5
Bread	10 cwt.
Beer	3 tuns.
Herring nets	8 val. 9*l.*
Lines	20 doz.

Certificates for Foreign Goods exported.

For Spain :

Tobacco	1,800 lbs.
White Sugar	40 cwt.
Brown Sugar	500 cwt.
Ginger	20 cwt.
Newfoundland dry fish	1,500 qtalls.

For Holland and Flanders :

Tobacco	1,600 lbs.
Brown Sugar	500 cwt.
Ginger	15 cwt.

For the Straits :

Tobacco	1,000 lbs.
Brown Sugar	120 cwt.
Ginger	8 cwt.

For Sweden :

Tobacco	1,200 lbs.
White Sugar	15 cwt.
Brown Sugar	56 cwt.
Ginger	5 cwt.

For Ireland :

Tobacco	1,500 lbs.
Brown Sugar	800 cwt.
Wrought iron	20 cwt.

Goods Imported.

From Spain :

Wines	350 pipes.
Oil	120 pipes.
Oranges and lemons	20,000
Raisins Sols	340 cwt.

From Portugal :	
Olives	40 barr :
Wine	180 pipes.
Cork	30 cwt.
From the Straits :	
Wine	120 pipes.
Oil	80 pipes.
Lipari Raisins	200 cwt.
Currants	110 cwt.
From Holland and Flanders :	
Cambrics	500 ptts.
Chairs	36
Mum	28 barr :
Rhen. Wine	105 aumes.
From Norway :	
Middling Masts	40
Deals	2,800
Balks	500
From Russia :	
Hemp	300 cwt.
Potashes	150 cwt.
Russia Hides	500
From Hamburgh :	
Narrow Germany Cloth	40 setts.
Iron Pots	300
Maddors	200 cwt.
From the English Plantations :	
Tobacco	400,500 lbs.
White Sugar	20,100 cwt.
Brown Sugar	80,000 cwt.
Indigo	3,800 lbs.
Ginger	750 cwt.
Cocoa nuts	350 cwt.
Cotton	250 cwt.
Lime Juice	400 galls.
Aloes	120 lbs.
Suckatts	250 lbs.
Rum	390 galls.
Molasses	450 cwt.
From Ireland :	
Sheep's wool	5,000 stone.
Horses	28

[Referred to in (*i*)[1], and delivered to Select Committee and read on 16 Jan. 1695–6. Com. Book].

(*k.*) 16 Jan. 1695–6.—East India Company's paper, delivered this day at the Bar by Sir Benjamin Bathurst, pursuant to Order of 13th (L. J., XV., 639). They offer, first, That the most proper means to preserve the said trade to the nation is to

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establish it by Act of Parliament in a joint stock, exclusive to all others. Secondly, The Company conceive that no other joint stock can preserve or carry on the said trade so much to the honour and advantage of the nation as the present East India Company, settled by his Majesty's late Charters in the year 1693. For both which assertions the said Company do, with all submission, crave leave to lay before their Lordships the reasons hereunto annexed. As for powers and privileges requisite to be given to an East India Company, they cannot lay before their Lordships a better precedent than those contained in a late Act of Parliament, passed in Scotland, for a Company trading to Africa and the Indies. *Signed* Ro: Blackborne, Secy. *Dated* East India House, London, 15 Jan. 1695.

Reasons humbly offered why a joint-stock will best carry on and preserve the East India trade. 1. It has been found, by common experience, that all nations who have had a desire to procure to themselves a trade to India have made use of establishing a joint stock for the gaining thereof; and, upon trial, have found all other means ineffectual, and therefore have continued the same. And certainly the most proper means to preserve a trade is the same by which it was at first acquired. And this was the reason why the Scotch have chose this method rather than any other way. 2. That, in case of any difference between the traders and the Indians, the strength a joint stock will always maintain in India will enable them to preserve, not only their factories, but oblige the Indians to do them justice, which cannot be done by any other way of trade. 3. That, in case of any difference or dispute with any European nation in India, such joint stock will be best able to preserve their trade. 4. That, in case of any considerable loss or want of profit in the trade, a joint stock must still struggle with it, their whole stock being appropriated for that trade; whereas, in any other way of trade, every man trades for as much or as little as he pleases, and discontinueth when he will. Such traders will trade no longer than they find the same answering their expectation, but will quit the trade upon the least discouragement. 5. That it is very well known, how moral soever the people of India are said to be, yet their forms of government do not admit those open ways to justice practised in Europe, and therefore the double arguments of force or money to the Governors must always be had ready, otherwise, upon every little dispute, they will overrun and seize the persons and effects of those that trade any other way, which will always be fomented by the joint stocks of other European nations. 6. Whereas joint stocks have, at a very vast expense, obtained many great privileges and immunities from the Indians, as coining of money, trading custom free, and many others too large to be here particularly inserted, if any other way of trade be introduced, the said privileges and immunities will be utterly lost, and, if ever re-obtained, must be at a very great charge. 7. It is very well known that in the year 1602 the Dutch, seeing the errors of a loose trading to India, did, after some years' experience of the misfortunes attending the same, reduce the whole into one united joint stock, with such privileges as they have ever since enjoyed, which have carried their trade to the height it now is. And it cannot be denied but the genius of trade hath appeared there in its utmost strength; and it is to be feared, unless the like methods be pursued in this nation, the East India trade will

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pass to some other country, trade always taking its course where it finds the best treatment and is allowed the greatest advantages. 8. But, admitting another way of trade might struggle with some difficulties, yet, in case of any breach between the English and Dutch, certainly the whole trade will be lost, they being so very strong in India in numbers of subjects and fortifications, which have not only been got, but are now maintained and daily improving, by their being brought to a joint stock, which can never be withstood any other way. And it is to be doubted, unless great encouragement be given to a joint stock, that also will hardly be able in such case to continue and preserve the trade to this nation.

Reasons humbly offered for the establishing the present East India Company by Act of Parliament. 1. His Majesty was pleased, by his Royal Charter of 11th Nov. 1693, to constitute the present East India Company for the term of twenty-one years, with and under regulations, the most material whereof were agreeable to the votes of the late House of Commons. In which charter his Majesty, designing to make the said trade more national, general and extensive than before it had been, was pleased to direct that 744,000*l.* should be added to the then joint stock; whereupon books of new subscription were laid open, and the said sum was accordingly raised, whereby above seven hundred new adventurers were then encouraged to come into the said stock, and many others since, so that it is conceived the present Company is in justice possessed of and entitled to the trade during the continuance of the aforesaid term. 2. That the present Company, upon the encouragement of his Majesty's said charter and their dependence that it should be continued unto them during the said term, have very much enlarged their trade, not only by sending out divers ships with very great cargoes, but have also, at great expense and hazard, laid the foundation of a great trade for the vending of English manufacture in the north parts of India and south parts of Tartary. It is therefore humbly conceived the present Company in equity should reap the fruits thereof, especially if it be considered that they have received no benefit since the said subscription, but have been so unhappy as to sustain very considerable losses by the capture of their ships. 3. It cannot be justly said that the present Company have not been, or are not, able to carry on their trade to the utmost extent, both to the advantage and preservation of it to the nation. (1.) Because they have since the said subscription sent out many ships with very great cargoes, and are now sending out eight more, richly laden. (2.) Because they expect the return of fifteen ships from India, with very rich cargoes. (3.) Because they are better able to preserve the said trade than any other company, as well by reason of the ability of the adventurers, as by means of their present establishments in India, and those many great immunities and privileges which have been obtained from several princes of India at very vast charge; all which will be either utterly lost, or rendered altogether useless to this nation, if a new company be erected in prejudice to them. (4.) Further, if it be reasonable to draw an argument from the constant usage of all other nations trading to India, it may be averred that no nation whatsoever, having once erected a company with a joint stock for the carrying

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on that trade, did ever think it prudent to dissolve such company, and to erect another. (5.) To this may be added the inconveniencies that will arise, both to the nation and present Company, in case a new joint stock should be erected in prejudice to the now Company. First, as to the nation, the trade is now under a free currency, ameliorated and improved by the experience of many years, and the Company's servants, affairs, and the management thereof settled, whereas, if the present Company be dissolved and another erected, it cannot be resettled without a very great expense of time, money, and labour. And, notwithstanding all the care the profoundest wisdom can take, foreigners will make such advantages between the drawing off the old and settling a new company as this kingdom can hardly ever recover, and a new joint stock, by reason of contrariety of opinions, inexperience, and for other causes, must for some years rather run backwards than forwards, as did the joint stock begun in 1657, which, after six or seven years' trading without any dividend, sunk at least thirty per cent. of the original value. Secondly, as to the Company, it may be observed that all the expense they have been at in the settling of factories and colonies will be wholly lost, and, in particular, a growing revenue (at present) of about thirty thousand pounds per annum must actually cease. Besides, it is justly to be feared, if ever the account of a dissolution of this present Company should arrive in India, their factors and servants (although now honest in respect to their employments) may be tempted to lay hold of such an occasion utterly to defraud the Company of such part of their stock as shall be then in India, which will be a great addition to the losses they have lately sustained. [Read this day. MS. Min.]

(*l*) 16 Jan. 1695–6.—Paper of merchants trading to the East Indies, delivered this day. They propose that a regulated company will answer all the desired ends of the East India trade. By an Ambassador at the Court of the great Mogul, and consuls at the chief ports, the effects of all Englishmen will be safe, and their privileges secured to them. The evil of a monopoly will be entirely prevented, also that of stock-jobbing, which hath ruined many families. More places of trade will be discovered, and the export and import of all those commodities much increased, many buyers of the English manufacture, and as many sellers of those from India, whereby ours must rise and the other fall considerably in price. There will be yearly opportunities for all conditions of men to adventure to India, which will make this trade very diffusive, whereas in a joint stock none can be admitted after the subscription is full and the books closed, but at the sellers' own rates. Greater number of ships and seamen will be employed, his Majesty's Customs very much improved, and many factories settled in the several places of India, and the trade drove to its extent. Nothing than this can so effectually disappoint the Scotch Act, when their Lordships shall have taken off the subsidy upon exportation. As to the powers requisite for such a company, there needs no more than will serve to raise so much money by a rate per cent. from the traders to the East Indies as shall be necessary to defray the public charges, abroad of ambassadors and consuls, and at home of servants and house rent, &c., which cannot in any year surmount five to six per cent. *Signed* Gilbert Heathcote, S. Shepheard, John Lloyd, Geo : White, John

Fentzell, Streynsham Master, Edw : Littleton, Abraham Beake, Tho : Lucas, Ben : Rokeby, Jos[h] Martin, Jno : Shipman, Edm : Harrison, Rich[d] Harrison, John Albertson, Sam : Lock. 1695-6. — No. 955.

[Read this day. MS. Min.]

(*m*) 22 Jan. 1695–6.—Papers delivered and read this day, pursuant to Order of 16th (L. J., XV. 642), as follows :—

(*m*)[1]. 22 Jan. 1695–6.—Paper of the merchants trading to the East Indies. They submit that the best way to carry on that trade to the general advantage of the nation is by the establishment of a regulated company, whereby all the subjects of England may have liberty to concern themselves therein at all times upon an equal foot, and so the manifold evils of a monopoly by a joint stock be avoided. It will be a great encouragement for adventurers to make new discoveries, when every one may have the management of his own affairs, and reap the benefit of his own industry ; the trade will be driven to its utmost extent, more ships employed, his Majesty's Customs advanced, many of the younger sons of the gentry provided for by beneficial employments, greater quantities of the commodities of our native growth and manufactures exported by many buyers, which will consequently raise the value here, and larger importations from India accordingly lower the price of those goods by the many sellers at our markets, give us great advantages to surmount our European competitors in that trade, and enable us to supply all these parts of the world with the commodities of those countries much cheaper than they, especially if the whole subsidy may be repaid upon all that shall be shipped off for parts beyond the seas. And lastly, by such an establishment two great evils, which have been practised by the present joint stock, will be effectually remedied, viz., the taking up vast sums of money at interest upon a Common Seal, which is a thing very unequal and hazardous to the subject, and that pernicious trick of stock-jobbing, whereby several families have been already ruined. Now, for the constitution of a Corporation to manage this trade, and the powers requisite for such a Company, they do further most humbly propose that a convenient number of persons be appointed and chosen annually to direct the general affairs, who may be empowered to levy money at a certain rate per cent. on all merchandise, as may be agreed by a general Court of Adventurers, which shall be the Company's stock for maintaining an Ambassador at the Court of the Great Mogul, consuls at the principal ports, making such settlements as may upon due consideration be judged necessary, and for defraying all other public charges. That every person at his admittance into the Company shall pay for his freedom a small sum for the uses aforesaid. That the Adventurers at a General Court may make such bye-laws for the better regulating and carrying on the trade as shall be approved of by the Lord Keeper, the Lords Chief Justices, and Lord Chief Baron, for the time being, to be consistent with the laws of the land.

Signed John Albertson.
Ben. Rokeby.
Will. Benson.
Nath: Gould.
Adam Bellamy.
Edward Darell.
Richard Chiswell.
Joseph Woolfe.
N. Waite.
Peter Paggen.
Jno. Cary.
Streynsham Master.
Ar. Shallett.
Peter Godfrey.

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John Fentzell.	Abraham Beake
Jn. Baskett.	John Wright.
Sam. Locke.	Tho. Lucas.
P. Priaulx, jun.	George White.
Robert Atwood.	John Lloyd.
Edm. Harrison.	Richard Harrison.
Gilbert Heatheote.	Fra. Annesley.
Sam. Shepheard.	Will. Stewart.
Edw^{d} Littleton.	Jno. Shipman.
Jos^{h} Martin.	P^{r} Albert.

(m)^{2}. 22 Jan. 1695-6.—Reasons, humbly offered to the Lords Spiritual and Temporal, for carrying on the trade to India in a regulated company. Though, at the first constitution of a joint stock, it is made as diffusive by the subscriptions of many in small sums as the nature of the thing is capable of, yet, by purchase or otherwise, it soon comes into few hands, and is attended with all the evils which a destructive monopoly brings with it, without having the least of those specious and pretended advantages so much talked of. And the assertion that the Dutch out of choice have settled that trade in a joint stock, and that the Scotch have so settled because it is the most advantageous, is ill grounded, being done by them for the reasons following :—The Dutch had the beginnings of their trade to India in the minority of their State, when they struggled with the mighty power of Spain in a long and bloody war, and, the Spaniards and the Portuguese (who were then under the same monarch) being masters of the whole trade to the Indies, the States, to weaken their enemies, wisely encouraged merchants to send ships into those seas by giving them commissions of war, and they effectually did it by taking considerable booties from them, and by augmenting still their force had greater success at sea and seized on some of their fortifications. This brought the merchants of their several towns to join, whereby, prosecuting their trade and their privateering several years, they became very considerable, when the States united them farther that they might yet be more serviceable to annoy the enemy, and brought the whole trade into a joint stock, and gave it mighty privileges, as of paying no Customs in or out, &c., which they enjoy to this day. This was the reason so long since that induced the States to this settlement, and not that they thought it was best so to do for the general good of the trade, or that it could not be as well managed by a Regulation, if their circumstance had been otherwise, but as an engine of war and depredation on their enemies. The East India Company of Holland being thus established, as it were by conquest, and thereby encumbering themselves with many fortresses in the South Seas and Ceylon, to maintain to themselves their most advantageous Spice Islands (without which the Company must fall), there seems a necessity upon them to drive that trade in a joint stock. For, indeed, their establishment in India is another Commonwealth, and their charge to maintain their many forts is so extravagant, being forced to send out 12 or 15 hundred men yearly, that, though they bring home many very rich ships annually, yet their dividends are but small, and those suspected by most to be rather out of their quick stock, for they owe, and continually take up, vast sums at interest, at home as well as in India, wherein our Company hath imitated them, though they had no Spice Islands or profitable Colonies to help

defray those charges, but only a plain trade, which might as well, nay much better, be carried on without forts. And, as we cannot in the one, so, we humbly conceive, there is no reason to imitate them in the other, because we have better ways, even by a Regulation, to outdo them. For, *anno* 1653 to 1657, while our trade to India lay open to all, the Holland East India Co. sunk greatly in their stock and credit, we undersold them in all those commodities, and brought home spice, in spite of them, procured at Macassar, a considerable mart in the South Seas, where we once had a settlement, and elsewhere, which gave them such apprehensions of losing their trade that, to prevent it, they employed some persons to influence Oliver Cromwell to establish this present joint stock, *anno* 1657; and they gave also pensions in England to forward the design. And, although they so much applaud the Dutch, calling them a wise people, masters of the mysteries of trade, &c., they do not tell your Lordships that they have not the Act of Navigation upon them; so that the condition of the people of England will be infinitely different from theirs, for if the Holland Co. set their goods too high, and use the people ill, though they cannot send ships to India, they can send to England, France, and Spain, or any other country, to buy all goods except spices. But, if our Company be thus established, the people of England have no way to help themselves, for the Act of Navigation prohibits the importation of all goods from any port or place except that of their growth, production, or usual place of their first shipping. And then, if an Act passes that none is to trade to those parts but A., B., and C., and their brethren, then can no East India commodities be imported but by them. And then if those gentlemen will demand 100*l.* for what cost them but 5*l.*, the people must pay it, or be without, for we can buy none of these goods in Holland or anywhere else; because these two laws have staked us down, and wholly subjected us to those men. In all other taxes we have this satisfaction, that we know the most can be demanded of us; but, were this Company settled, we are left to the boundless will of A., B., and C., and their brethren, to order them from time to time as they list. The Company do indeed pretend that they cannot set their own rates and get what prices they please, because their goods are always exposed to sale by public candle, and put up low, where every person is admitted to buy, and the buyers set the price. Now, that this salvo is insignificant is known almost by every trader's constant practice; for, when a ship or any goods are exposed to sale by the candle, the sellers have always friends in the place, who bid until it comes up to the seller's price. This relief by a public sale will not help us. Besides, the Company can import so little that the people's wants of the commodities will force them to give what price they please. The Scotch chose a joint-stock before a regulated company, because they never yet had any trade to India, nor have their merchants wherewithal to manage it, so must call in the assistance of other nations both for money and experience, which, God be thanked, is not our case, being very well acquainted in those parts of the world, having a large improved experience in trade, and stock enough to carry it on to its full extent, such a genius to traffic and navigation that, wherever we have met with competitors, and not been clogged with joint-stocks (whose managers are chosen, not because of their knowledge of those trades, or for

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their integrity, or any other endowment, but because they will promote the particular interests, and observe the directions, of some towering men), we have out-traded them all—witness to Turkey, Spain, Portugal, &c., and in the West India trade, which the Dutch manage in a joint-stock, we have so much exceeded them as no history can parallel. And, since the present East India Co. do much value their forts, we humbly say that Fort St. George is situate where there is neither port nor harbour, only an open road where no ships can ride, upon the breaking up of the monsoons, with any tolerable safety, nor is this road well commanded by the town or fort, nor can any passengers or goods be landed or shipped off in other than the country boats, which are exposed to great hazard, and can be managed by none but the natives, and carry but 6 or 8 bales at a time. Nor have they water or fuel or provisions enough within themselves to hold out a ten days' siege, being supplied with all from the country. It is the worst seated for trade, or to make investment of goods, of any on the coast of Coromandel, and it is now much oppressed by a Custom-house the Mogul hath lately set up very near it, which exacts 5 per cent. upon all goods going in and coming out of the place. So we believe the Company had no such pennyworth of it, when they agreed to allow the former Company 6,000*l.* for it. Bombay, it is true, is more defensible, there is a port, and it may be relieved by sea; yet it is a place without commerce, and the safety and convenience of ships harbouring there would be more were it in the Mogul's hands, for he will not suffer any hostility in his ports or roads, as we have instanced to your Lordships in the *Constantinople Merchant*, 1665, in the Dutch war, and the *Success* and *Benjamin* at Surat 2 years since from the French. Moreover, this place is extremely unhealthful; but, to inform your Lordships more truly, we set down four paragraphs of Sir Jno. Child, the Company's General, and two more of their Council, dated 7th June, 1689, to the present East India Co., viz.: "We wish this Island may prosper and flourish suitable to your desires, but we truly think it will never be otherwise than a charge to you; and, if the Mogul takes the country round about us, it will be next door to an impossibility to maintain the fort against him. The shop-keepers are, at the best, poor needy fellows, and what they sell is but just enough to supply their necessities from hand to mouth. However, in compliance to your order [we] shall see and raise a moderate duty on the shops, as may be most for your interest. We shall be glad to raise your revenues suitable to your desires, and wish the Island was in such a condition as to be able to bear such a charge as your honours propose; we fear that it will never be in our days, and find no reason to hope that it ever will be. If there be a Dutch war, believe it from us that at best we shall be but in a bad condition in these parts of the world, they being so very numerous. But, for your island of Bombay, we do verily believe they will never offer to meddle with it; for we cannot conceive what should induce them to such an undertaking." And the writers presume to add, nor anybody else, except it were to make a present of it to the Great Mogul, for the Dutch find forts chargeable things where they support the trade, and will not be so mad to load themselves with them where no trade is to be expected. But, should they be so, it is not doubted the same fate will attend that as did Gambo, a fort of our Royal African

Company's, mounted with 74 pieces of cannon, which surrendered to Monsr. de Genes with 3 French frigates, upon his first summons, in July last. All the good these two main forts of St. George and Bombay have done the Company is, they have raised them in opinion and greatness of themselves, for they have, without any regard of the honour of the nation—which they only pretend unto—exposed it the most ever subjects did; for, after their factors had run above 300,000*l.* in debt at Surat, their president made his escape from thence by particular order of the company in these words—That he should leave them, but leave them as the Israelites did the Egyptians. They took, and contrary to the faith of nations plundered, those very ships they had given their passes to, and sent home several of the goods which they sold and divided. After they had so taken the ships they made a formal declaration of war, and proceeded thereto, until by woeful experience they found the inconsistency of war with trade, and what a condition they were in; as doth appear by the following paragraphs of the aforesaid letter, viz.: "We cannot see any hope of trade without making peace with the Mogul, and we must then pay our old debts, and after that is done we shall not be overstocked with money. Your honours may be assured that the Mogul is a potent prince, and he doth not at all value your trade. His subjects are not so poor as you are pleased to think. We heartily wish the wars with him and his subjects were at an end. Your honours may firmly believe that we are willing enough not to part with anything that we have taken, more than what we see of absolute necessity for your interest. Your honours have neither Mergeen nor Chattegaum, and so, we fear, will not have so honourable a peace with the Mogul as is expected; but we shall do what we can towards it, as becomes us." And accordingly they did, and sent up Mr. Geo. Welden, an Englishman, and Abraham Navarra, a Jew (which latter, when they kept their High Court of Admiralty in India, was styled his Majesty's Attorney General), to the Court of the Great Mogul to sue for peace; where [when] they had been sometime, and made their way by presents, they were admitted to the Mogul's presence, but it was in the posture of malefactors, obtained his pardon, and allowance of trade, in a firman granted them in the words following, viz.:—"All the English having made an humble submissive petition that the ill crimes they have done may be pardoned, and requested a noble firman to make their being forgiven manifest, and sent their *Vakeels* to the heavenly palace, the most illustrious in the world, to get the royal favour, and Ettimand Chawm the governor of Surat's petition to the famous court equal to the skies being arrived, that they would present the great King with a fine of 150,000 rupees to his noble treasury resembling the sun, and would restore the merchants' goods they took away to the owners of them, and would walk by the ancient custom of the port, and behave themselves for the future no more in such a shameful manner; wherefore his Majesty, according to his daily favour to all people of the world, hath pardoned their faults, mercifully forgiven them, and out of his princely compassion agrees that the present be put into the treasury of the port, the merchants' goods be returned, the town flourish, they follow their trade as in former times, and that Mr. Child, who did the disgrace, be turned out and expelled." Having thus laid before your Lordships the honour this Company hath done

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the nation in prosecuting the East India trade, and showed how useful their forts are to preserve the trade, especially in time of war with the Dutch, we humbly proceed to the privileges the said Company do pretend to have obtained in India with vast expense and charge, and do aver—That they are all owing first to the embassy of King James the first by Sir Thos. Row, *anno* 1615, of which the Mogul certified the King in these words—"I have sent forth my firmans through all my countries to this effect; That, if any English ships or merchants shall arrive in any of my ports, my people shall permit and suffer them to do what they please freely in their merchandising cases, aiding and assisting in all occasions of injuries that shall be offered them, that the least cause of discourtesy be not done unto them, that they may be as free, or freer, than my own people." 2. Those in the Bay were the effect of a remarkable cure one Mr. Bowden, an English surgeon, wrought about 40 years since upon a person of great quality, for which he refused to receive any other recompence than a general grant that the English nation should have a free and unmolested trade in those parts, which was given and hath been continued until this late unaccountable war, but by the peace restored in the words following, viz.:—"Know this that the good fortune of the English hath directed them the right way to end their faults, which the King out of his great favour and mercy, always ready to pardon, doth freely forgive them; therefore his clear and unspotted order is such which you are to observe as you do his that you pray unto, that, so soon as this gracious firman reaches your hands, you suffer nobody in your jurisdiction to molest, hurt, or hinder the English nation in their business, but suffer them to carry it on in the same manner as formerly. This understand, and act accordingly." By all which it is most evident that the Company have not any privilege exclusive of the rest of the nation, as it manifestly appeared in the two free-trading ships the *Seymour* and the *Henry*. However, the said Company did what they could to oppose them; for the *Seymour*, in which was Captain Pitt and Mr. Catchpole, arriving in the bay, were accused as pirates by the said Company's factors, and as such brought before the Government; and his Excellency Sir John Goldsburrow, their Commissary General over all India, having heard that the *Henry*, in which was Mr. White, was gone in (*sic*) another private ship to Surat, did write to the President there acquainting him—"That an English pirate, one Captain Pitt, was come into the bay on pretence of trade. That the Government had seized him, his ship, and goods, and that upon examination he had confessed that there was another gone for Surat, vizt., Mr. White, as great a pirate as himself; requiring the said President to acquaint the Government therewith, that he might be seized also to prevent all further damage to the Mogul's subjects." All this notwithstanding, and that those people are extremely exasperated against pirates, having suffered so much by piracy, they could not by this artifice be drawn from their accustomed justice, but, having entered into the matter, though the Company's factors bribed high at Surat to prevent it, that they might take it *pro confesso*, they, upon the merit of the cause, admitted both those ships to trade, and to return to England with the produce of their cargoes in the proper commodities of those places, which were as good and as cheap as ever were purchased

by the Company ; nor did they pay any more Customs duties or acknowledgments than the present Company always did, or now do ; and this present Company are so far from having enlarged the trade to India that they had, before this late charter and subscriptions thereupon, reduced their trade to so low an ebb that the farming it out to Jews, Armenians, and others was the chiefest of their business, for their drift was not to enrich the nation, but themselves. And their present circumstances are such, that, without an Act of Parliament exclusive to all others (upon which not only they, but the meanest of men, may raise money to carry on the trade), they cannot, upon their own bottom, send out the number of ships they have declared to dispatch thither this year ; although, above the vast sums they owe at interest, they have advanced 25 per cent. upon their stock in taking 80*l.* paid in guineas at 30 shillings a piece for 100*l.*, and give bills under their Common Seal for paying 112*l.* at the end of two years, which is 20 per cent. per annum for the money received. And, to avoid the law against extortion, the condition is, if twelve of the ships named of those they have abroad and now going out do miscarry, then their bond is void, but if any one of them arrives it is in full force and virtue. The merchants of England are an industrious people, and lovers of trade. They do not, upon small—no not upon great—discouragements, give it over, but do rather endeavour to recompense themselves by the same voyages ; otherwise the Newfoundland, the Virginia, and many other trades that are closely pursued, had been left off long since. Where there is any hope of vending their home commodities, they are ready to carry them even to unknown and but in part discovered places, far beyond a joint-stock, who cannot, being once so constituted, (for it would be against their oaths should they) prefer the public good in prejudice to their joint stock, which such companies were never known guilty of, always exporting and importing no more of any merchandise than what will yield them their stated profits. Whereas particular merchants in a regulated company (who cannot make combinations) will carry out and bring home much greater quantities of all commodities—employ many of the younger sons of the gentry, who may settle houses, raise estates there, without being at the pleasure of a few men, whereas in joint stocks few go but men of broken fortunes, or youths to be bred up at mean salaries—add greatly to our navigation—increase the Customs, and will, in every point, be of infinite advantage to the public as well as themselves, whose right and property it is that the commerce and traffic by sea be as unlimited and free as the inland trade. It is therefore humbly hoped that your Lordships will erect a regulated company for India, whereby the right of the subject may be preserved, and the trade carried on to the interest and honour of the nation. *Signed* by the same persons who sign the principal paper, with the exception of Fentzell, Rich[d] Harrison, and Shipman. [Read this day and on 28th. MS. Min.]

(m)[2]. 22 Jan. 1695–6 —East India Company's Paper. The Company, in answer to the objections of those who appeared in behalf of a regulated company (Paper *l*), add to their former paper (*k*) the following :—(1) As to the objection that a joint stock would be a monopoly, which would be avoided in a regulated company, they answer they cannot apprehend a joint stock established by Act of Parliament can be called a monopoly, especially when every body

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has liberty to come into the same at the market price. (2) And, as for the objection of having but one buyer and one seller, it must be distinguished whether it means one buyer and one seller in England, or in India. If in England, a joint stock must buy in common with others. As to selling, the goods of a joint stock are always exposed to public sale by inch of candle, and put up at low rates, where every person is permitted to buy, and the buyer sets the price. And by their present constitution they are restrained from all private contracts, nor can they expose above five hundred pounds value in any one lot, by which means all imposing upon the buyers is rendered impracticable; and it may be observed that they are obliged to put up all their goods to sale by inch of candle, nor can they buy them again for the Company's account, either to put a greater price upon them here, or to carry them abroad. As to the objection that a joint stock can get as much by a small trade as by a greater, the present Company cannot divide anything out but profit, and are obliged to employ 1,500,000*l.* stock; by which it is evident that it is the Company's interest to extend this trade to the utmost it is capable. For, should they not import sufficient quantities of goods, their neighbours would supply, not only foreign markets, but "our own" also, by bringing in goods by stealth, as they now do. And it is well known, before this present war, that India goods were sold so cheap for several years in England, that most of the Europeans were supplied from hence; and even the Dutch themselves with calico. As to India, it is the interest of England there should be but one seller of English commodities and one buyer of India goods there, whereby the English manufactures are better vended and put off, and the India commodities bought at lower rates, than otherwise they would, and consequently can be afforded, both in England and for foreign markets, at lesser prices than otherwise they could be. And it is the interest of the Company to carry out as much English manufactures as they can possibly find a vent for, because their ships do otherwise go dead freighted; and, if any profit can be made by the English manufacturers, it is clear gains to the trader, whereas bullion admits of little or no increase of advantage between England and India. Whereas, on the contrary, it is well known the Indians always raise the price of their goods if several buyers come to their markets. As to the objection that the Company's forts and castles in India are useless, they answer that they are not only useful, but absolutely necessary for securing the Company's trade, as well against the insults and designs of the natives as Europeans, instances of which they crave leave to lay before their Lordships as follow:—(i.) For the want of such forts all the Spice Islands were lost to the Dutch in the time of King James and King Charles the First, and they have by forts preserved that trade ever since solely to themselves; nor have they ever failed, where they have once obtained footing, to establish themselves by erecting fortifications; witness the island of Zeilon [Ceylon]. (ii.) For want of such forts the English were driven from the trade of Maccassar, in the beginning [of the reign] of King Charles II., and from the trade of Bantam in the year 1682; in both which places the Dutch have since secured the said trade by erecting forts, by which means they well hoped to have engrossed all the pepper trade to themselves, as they did of the other spices, and had certainly effected it, but that the Company

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did secure some part of it by virtue of our forts at Carwar, and by a very great charge in erecting other fortifications on the island of Sumatra, and in the Queen of Altingas country; from which it doth plainly appear that no part of the pepper trade can ever be secured to this nation without forts and fortifications, and, if ever any other of the spice trade can be retrieved, it must be maintained and supported by the like methods. Another instance of the necessity of having forts in India is that thereby the Company have secured both their persons and effects from the insults of the natives; for, when the Mogul's army lately overran the kingdom of Gulcondah [Golconda], a part of the army came down near Fort St. George and plundered the Portuguese at St. Thomas, and demanded 40 or 50,000*l.* at a time of the English, but, finding the strength of the place, went away *re infecta*; and the like has been attempted several times by others, and we must observe a very considerable part of our investments are made in these parts. Another instance of the necessity of having forts is the protecting "our" ships from Europeans when in enmity with his Majesty, as was done in 1672, when the Dutch, having 22 men of war near Fort St. George and had taken 3 English ships, the 7 others were protected under Fort St. George. In the year 1690 six French men of war, having taken a Dutch ship on the same coast, were in pursuit of the Dutch Vice-Admiral and four more, who having news thereof, retired to Fort St. George, and, lying under the protection of the said place, were attacked by the French; but [they were] soon beaten off by the fort with great loss, whereas they had certainly been taken had it not been for that fort. Another instance is the protecting our ships and effects from Indian pirates, who are now grown very numerous and strong, some of whom attacked and boarded Capt. Tyrril in the *Phœnix* man-of war, and had like to have taken him; and at another time the ship *President*, of 600 tons, in the like manner; and do often take ships out of Surat river, but have never yet attempted to set on any in Bombay road. It has been said the Mogul protects all ships in his river, whereas there are many instances both of European and Indian ships that have been insulted there, and in particular the Dutch did lately keep in two French ships in the Bay of Bengal, and, it is reported, have since taken them. Though at this time the Mogul has subdued a great part of India, yet, whenever he dies, it is very probable that that great empire will break into several pieces, and great wars will arise, and certainly our fortifications will, in such case, preserve their trade and factories, and hinder them from being overrun by one party or other, especially if it be considered that Bombay did hold out a siege of 16 months against 20,000 of the Moors, who were forced to retire. And, though the Co. have no fort in the Bay of Bengal, yet most certainly it would be of great use and advantage to have one to protect their trade there. These forts are not only made use of to protect their factories from their enemies, but are also the magazines of most of their Indian goods and Naval stores, to supply their European and Indian shipping in case of any emergency; and, should we have war with any European nation, it were impossible without such stores to support any war against them in India. Lastly, it is very evident by the practice of all European nations that they judge the use of fortifications to be absolutely necessary in the carrying on their trade in India, and certainly it will be a very

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vain attempt for any nation to hope to propagate or continue such trade without the like methods. As to the objection that a regulated company will be a means to enlarge the trade much better than a joint stock, they answer, this allegation, though specious and made much use of, is in fact directly contrary, which the better to make appear, they must first desire them to explain what they mean by the words national and extensive. If by them they mean more persons may be concerned, that part in fact is contrary, for in the Muscovy, Hamburgh, Turkey, and Eastland Companies, which are the only regulated companies in England, in all of them together there is at this time not above half so many actual traders as are now concerned in the present joint stock to the East Indies. To which may be added that in regulated companies the trade is restrained to experienced trading merchants and no others, whereas, in the trade to India in a joint stock, all degrees of persons of the nobility, gentry, clergy, widows, orphans, and all degrees of persons, as well as merchants, are or may be concerned in it, although not skilled in the said trade. If, by the words extensive and national, they mean that a greater sum of money will be employed in that trade, they answer that a joint stock is no more confined to a particular sum of money for carrying on their trade than is a regulated company, but can with much greater ease extend their trade to the utmost degree that the nature thereof is capable than can particular merchants. If by national or extensive they mean that a regulated company will open and enlarge the trade in India to such places as have not been attempted by a joint stock, they conceive the contrary is evident by the Turkey Company, who, though established above 100 years, have not been known to have settled any trade but in three places, viz., Smyrna, Aleppo, and Constantinople; nor doth it seem reasonable to believe that any private person should fit out or send a cargo to places unknown, when he neither knows whether the goods he sent out are vendible there, or whether he can meet with proper goods for his market at home. But it has always been observed that the particular traders in a regulated company content themselves to go to a certain known place of trade, ever taking a measure of their profit and loss before they go out, and ever pursuing their private certain interest without regard to the advantage of the nation. And truly it is [un]reasonable to expect that any private or particular person should, at his own risk and charge, make discovery of any new trade, when he is sure others will come in and reap the advantage of it; whereas, in a joint stock, though they should make losing voyages in the attempt to open any trade, they are better able to bear the loss and to struggle with any difficulty which may by perseveranee be overcome, since they are sure the profit at least will make amends. And, for proof of this assertion, the East India Company's stock have made several attempts for enlarging of trade to their very great charge, some of which have succeeded, as in the trade to China, Macao, and Tonquin, and upon the west coast of Sumatra, Malabar, and Attinga, by which means part of the pepper trade is yet secured to us, as also they have attempted the discovery of many other places for the enlargement of their trade to their very great charge which have not succeeded, as Mindanas, the coast of Melinda, and the great island of Japan, the last of which cost the Company no less in the experiment than 50,000*l.*; and the East India Co. have, in these fruitless attempts, lost very

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great sums of money, yet, nevertheless, they are not discouraged from making any further attempts, and, in particular, are now opening a trade in the north part of India and Tartary for a greater consumption of the woollen manufactures. And, whereas it is affirmed that a regulated company, or open trade, is the best means and way of preserving and enlarging the trade to India, and to cope with the Dutch and disappoint the late Scotch Act, they answer that all European nations have taken a contrary method; and, though some of them, as particularly the Dutch, had at the beginning divers little companies afoot, yet they thought it prudence to reduce them into one joint stock with such privileges and immunities as ever since hath preserved them. And, were there no other trader to India but themselves, there might be some arguments made for a regulated company. Yet, since all other nations have taken the contrary method, yet it will be as improper for us not to take the like method as they do, otherwise it will be like a husbandman throwing down his inclosure for improvement and preserving his stock, whilst his neighbours keep up theirs. Neither can any reasonable man affirm, in case any wars should break out between any European nation trading into India and the English, that the traders in a regulated company or open trade can preserve or defend the trade, which will be as vain an assertion to affirm [as] that a loose body of men can cope with united and regular forces. Besides, it must be observed that joint stocks have always very great effects in India, which will perpetually oblige them to be watchful to preserve their own stock, and consequently the trade to the nation, against all the Europeans and Indians; whereas private traders will only send out and convert their goods in India, and come home with their estates. For the traders of the Turkey Company do leave a great part of their stocks in Turkey, yet they constantly hold a correspondence from thence, and give direction and advice how to proceed in case of any difficulty. But, by reason of the distance to India, and the length of the voyage, no private person will ever trust or leave any considerable stock there, it being very well known that, if any person die in India, it is not without great difficulty that his relations do receive his estate or effects. Whereas it is alleged that a regulated company will be a better means to employ gentlemen's sons and others in that trade than can be done by a joint stock, they answer that the contrary is true, forasmuch as there are now, at this present, more gentlemen's sons and others employed by the present Company in India than is by the Turkey Co. in all their factories; only with this difference, that the Turkey merchants take some times 5, 6 or 800*l.* with a gentleman's son, to employ him in their trade, whereas the [East India] Company do employ them all gratis. And, for great and defensible ships, there are more built and employed for that trade than any other trade out of England, the Company for building of such for that trade allowing considerable advantages for their better encouragement. But, if ever that trade should be managed by a regulated company, the ships that would be employed by such private traders would be of much less burden and force. *Signed* (By order of the Governor and Company) Ro: Blackborne, Secy. *Dated* East India House, London, 22 Jan. 1695. [Read this day and on 28th. MS. Min.]

(*n*) 22 Jan., 1695–6.—John Gardner's proposals. John Gardner, of London, merchant, offers the following method or scheme for the establishment of the present East India Co., which he humbly

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conceives may prove a good expedient to preserve the said trade, and, as much as possible, reconcile the different interests with the general satisfaction and advantage of the whole kingdom. I. That the present East India and Joint Stock be settled by Act of Parliament, exclusive of all others, but on the following terms, for years. II. That all others shall have liberty to trade thither, paying 20 per cent. outwards (or 15 per cent. outwards and 5 per cent. homewards) to the Company towards their public charge. III. That all that desire such licences shall be obliged to give notice to the Company months before their ships shall be ready to sail from England, to the end the Company may consider the better to manage their own trade, so as to prevent glutting the market. IV. That one per cent. be paid by all licensed ships towards the maintenance of the Hospital at Greenwich for Seamen. V. That all duties be repaid on exportation of East India commodities, which is but 2½ per cent. more than at present, and in lieu thereof one per cent. be paid more at importation. VI. That it may be lawful for any persons to come in with new subscriptions to the present stock till the day of next, not exceeding 500,000*l.*, and valuing the present stock at 80 per cent. VII. That one per cent. be paid to the Crown on all transfer of stock. VIII. That all persons residing in England or Ireland be forbid being concerned, directly or indirectly, in the Scotch East India Company on severe penalties. The proposer is ready to demonstrate the reasonableness and advantage of all the said propositions. *Signed* John Gardner. [Read this day and on 28th. MS. Min.]

(*o*) 1 April 1696.—Preamble and conclusion of the Report of the Committee, leaving out the Regulations. Ordered 20th March, and made this day. L. J., XV. 724-5, *in extenso.*

(*p*) 1 April 1696.—Mr. Pollexfen's Paper, dated 17th Feb., and reported this day as follows:—1. That the goods imported from East India, till about the year 1670, were only drugs, spices, saltpetre, and some coarse calicoes; the trade in other manufactured goods and raw silk a new trade. 2. The Charter to the East India Company was confirmed by King Charles II. in the 13th year of his reign; the law for permitting the exportation of bullion was made the 14th year, at the solicitation of that Company; till then little silver or gold was exported to India. After that law was made, then began the exportation of bullion to India, and, quite contrary to what was intended by that law, vast quantities of our milled money (because it was our weightiest) melted down, then called bullion, and exported; and then began our trade in manufactured goods from India, and 72 or 73 throwers, weavers, dyers, and other artificers, were sent over by the Company to India to teach the Indians to make their goods and several handicraft commodities fit for the European markets. 3. That about 3,000 tons of manufactured goods were brought from India to England *communibus annis* for several years before the war, which hinder the consumption of so many of the manufactures of Europe, there being only some few sent to Turkey; what share we have in the loss is difficult to decide, but most considerable. 4. For it is obvious that a great part of the said manufactured goods are spent in England, and in the room of our own, viz.: their silks, painted and dyed calicoes, instead of our home manufactured silks, Norwich stuffs, perpetuanos, sayes, authorines, gauzes, and crapes, &c., not only for vestments of both sexes, but for hanging rooms, beds, &c.

5. That the coarse calicoes, fine muslin, and other linens do hinder the improvement of our linen manufactures, so necessary and advantageous for this nation, which, if encouraged, would in a short time make sufficient and fit for all uses, so as to want none but some find [fine] hollands, cambrics, and lawn, which might be purchased in the room of our own manufactures and products. 6. That the cabinets, japan and lackered ware, screens, fans, trunks, chests, baskets, as also petticoats, gowns, shifts, sheets, quilts, neck-cloths, handkerchiefs, clouts, girdles, garters, pillow-beers, china-ware, and many others, do cost this nation a great sum of money annually, and are a great hindrance to our people's employ. 7. That the commodities sent into foreign parts do, in some measure, hinder the consumption of our manufactures abroad. 8. That the raw silk imported in great quantities, and the goat's hair, &c., hinder the consumption of so much from Turkey, from whence we could have it in return of our manufactures and products. 9. That the cotton-yarn and cotton-wool hinders the consumption of so much from our plantations. 10. That the Indians are ingenious, have material cheap, and wages at a half-penny to a penny a day. What costs there 1*s.* will cost to be made here above 20*s.*, which disables the European traders from contending with them, and for that reason, as this trade in a few years did increase apace till this war, so [it] may increase, if permitted, to the ruin of our best fabrics, and the starving our people. 11. That the exportations from India, before the war, were about 50,000*l.* *communibus annis* in bullion, and about 30,000*l.* per annum in manufactures, by the Company, besides bullion shipped out by others, or in others' names, which may be half as much more. 12. That it may be reduced to a certainty that bullion hath been carried out, but whether the goods transported to foreign markets do bring us back in return as much could never yet be demonstrated, and it is doubted if one half comes back. 13. That trades carried on by the exportation of our products and manufactures cannot, generally speaking, be bad, for [they] leave a great blessing behind them; but no advantage by the exportation from trades carried on by the exportation of our bullion, rather of great inconveniences, and therefore reasonable to have a watchful eye over such trades. 14. That it is presumed we spend annually at home of East India manufactured goods and toys about 400,000*l.*, and that it is near so much loss to the nation, it being possible that some trading men may enrich themselves by trade that may impoverish the nation in general, and that many muslins are spent at this time which come in from Holland by stealth, which come very costly to us. 15. That, if the expense of goods manufactured in India be by example and laws prohibited, care may be taken, by some such method as used by the Lutestring (*sic*) Company, to secure the expense of our own manufactured silks, stuffs, and linens, in the room of them; no silks from France at present, and very few from Italy. 16. That such prohibition would not only encourage our own manufactures, upon which the value of lands and employment of our poor depends, but prevent the exportation of much of our coin, and probably many of the inconveniences feared from the Scotch East India Company, and the importation of the East India goods taken from us by the French last summer. 17. That to settle the trade to East India for 21 years by Act of Parliament in a Company by a joint stock, without such restrictions, would, in effect, give up our best fabrics and artificers to the

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mercy of a corporation, who are bodies, but, 'tis usually said, have no souls, and some think no consciences, the common seal being to answer for all bad actions; for as have increased in 25 years, when calicoes were a scandal to be worn, to be now the choicest ornaments of our greatest gallants, so 21 years more may increase to the ruin of our best manufactures. 18. That the cloths the East India Company send now to India more than formerly prove no advantage to us, for, being sent thence to Persia, [they] hinder the expense of so many in Turkey which were formerly sent thence to Persia, so that the exportation to India may be reckoned all bullion in effect. 19. That no objection can well be made against the trade in drugs, spices, saltpetre, &c., because [they] cannot well be had on better terms; nor to the manufactured goods that are transported hence to foreign parts, because [it] increases our trade, employs our ships, and will be carried on by other nations if we should neglect it. But if it appear to be luxury and ill-husbandry, which hath been the ruin of great nations, and laid their honour in the dust, to despise our own and send our gold and silver to India from whence it can never return to us, whereas it may be kept here to circulate amongst our own people by spending our own, in a time when we are in danger of a want of coin, so necessary for the carrying on of commerce and payment of fleets and armies that we can neither be rich or safe without it, must be submitted to your Lordships' great wisdom and judgment. The original of our riches is from the labour, diligence, and industry of our people in getting out of the bowels of the earth, from our lands and the sea, what may be improved and made useful for carrying on our foreign trade, upon which also depends the increase of our seamen and navigation, in which our strength consists, and the support of millions whose lot Providence hath cast on trade. These great concerns thus depending on trade, it may properly be said it is to the body politic as blood to the body natural, not only to support the main but particular members, and, if not allowed its due circulation, may afford too much nourishment to some, but occasion a consumption or withering of the rest. Hope of gain is the mother of trade in general, but more particularly of such as get trades incorporated in joint stocks, which seldom extend to relieve the meanest, usually only the richest, traders, who, being weary of toil, minute gains, and trading in common upon the same foot equal with others having good purses to support specious pretences and to pay the charge of solicitations and grants, make it their business to get some good trade incorporated, which is usually attended with dominion over their fellow subjects, and the blessings of a monopoly to them and their heirs for ever, as may be instanced from the East India Company. Thus, incorporating of trades may be a good way to advance some trading men, but whether it may advance the trade of the nation in general, or answer with that equal distribution of favour, justice, and protection, which all his Majesty's subjects hope for and expect from the Government, is the question. When a trade is first incorporated it is usually granted that all may subscribe that will, within a time prefixed, those that do not come in by that time to be excluded. Corporations when once settled are not easily broken; those who have the possession claim it as an inheritance. This for East India hath continued ever since 1657. Those who were beyond sea, or

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unborn, or since grown up, not then capable to subscribe, have thought it hard that they should be excluded, happily only because they were under a natural incapacity at that time to come in when the books were open. The separating of a great part of trade to the particular advantage of some few as hath always been attended with a kind of civil war amongst the trading people, and it may be feared will always with murmuring and discontent [of those] who are deprived of their birthrights, and that it is unequal they should be excluded from such trades at the same time when the members of such incorporations may come into them. If it were granted to the inhabitants of Surrey and Sussex that they should have the sole selling of corn and cattle to the City of London, the inhabitants of the adjacent counties would probably complain, as well as the citizens. The incorporating of trades in joint-stocks settles all trades in London, which is thought to be already too big, if compared as a head to a body; from thence all ships and commodities belonging to such companies must have their egress and regress, which may be a prejudice to other trading cities, as well as to particular persons. [It] cannot answer the ends designed by trade, which can only be attained by permitting trade to be as large and diffusive as possible; for, though at the first erecting of companies a great stock be subscribed, yet [it is] seldom taken in. The stock first subscribed for the East India Company was 744,000*l.*; only 373,000*l.* taken in, because it was found more for their interest to take up 600,000*l.* upon a common seal, trade with that, pay the lenders 4 or 5 per cent., and divide 100 per cent. to themselves, than to take in more stock or adventurers. As this made it very unequal to such as were not of the Company, so there was great inequality amongst themselves. Though there were many subscribers at first, yet some, to get the ascendant over the rest, soon engrossed the stock after the trade began to thrive, and, when it was in its most flourishing condition, ten men had one quarter, and thirty-seven one half, to which adding the great advantage such men made by private sales, owning of ships, private trade, and otherwise, having the sole management and disposal of all in their hands, the rest that were concerned had no proportion of gains to the others. If the stock and adventurers be since increased, it will appear upon examination that it was done to relieve the necessities the companies lay under, and for their own advantage, and not out of good will to the public. The extraordinary gains this company have divided have not risen so much from foreign trade by the goods transported, as by the advantages made by trading with other persons' money, and the extraordinary rates at which they have sold their goods to our own people, which hath amounted to a considerable tax upon the nation, as corporations in trade ever were and must be. If other trades should be also incorporated and the stocks so engrossed, how few of the millions that must live by trade would be supported by it, and what a charge or tax would be on the rest of the nation who are not concerned in trade! To pay in all commodities what would be advanced by the privilege of having but one buyer and one seller to a trade would soon swell all gentlemen's expenses. If not good for all, why good for part? As good pretences and weighty arguments may be made for the incorporating any other trade as for that to India, and likely were made when King James the First incorporated the Spanish trade, and King Charles the

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Second the Canary trade. Buying and selling of shares in stock no salve to these objections, for that still leaves the door to come into trade as narrow as to come into any man's possessions of land if they will not sell, or not but at extravagant rates—all others must be kept out ; and at best but exchanging Thomas Rowe for Thomas Doe. Only liberty in trade can make trade great, and greatness can make it beneficial ; a narrow contracted trade cannot afford to the nation in general gains as when large and diffusive, though [it] may be sufficient to enrich a few men, if the advantages be confined to them, for such may make great gains, though trade little, by selling dear, and therefore not under any necessity to make bold adventures to discover, enlarge, or force trade. The discovery of many trades, where we now spend great quantities of our products, is owing to the industry and adventures of particular men, not to companies. The most proper way to increase and enrich this nation is to give as much liberty as can consist with safety. But other arguments may be drawn against such constitutions from the late proceedings of the East India Co. [in] procuring commissions, by most thought to be illegal, upon which several men were put to death at St. Helena and Fort St. George, for setting up a Court of Admiralty and Court Martial there, and for the commanders of their own ships, as well as of men of war sent on purpose and at the charge of the public, to seize and destroy such as were called interlopers, as they did to the value of about 200,000*l*., levying frequently great mulcts and fines on their factors, seamen, and others, imposing strange oaths, and expending great sums of money to carry on such designs. As by these proceedings [the Company] bids defiance to all laws hitherto, so it may be feared will they hereafter, though one law more should be made to bind them. Where temptations are great, and transgressions private, laws are often broken. A great stock and thriving trade may soon put an East India Co., if settled by Act of Parliament, beyond the control of laws and government ; if it should walk in former steps, [it] may be sooner set up than pulled down, and prove an unlimited constitution under a limited monarchy, if measures may be taken from what hath passed. If settled by Act of Parliament for 21 years, though the trade in that time increase to be 20 times more than at first, [it is] not likely [they] will increase their stock or take in more adventurers, but keep all to the few that may engross it at first. To avoid most of these evils, this regulation is humbly proposed :— That a company be established ; a governor, deputy-governor and 24 assistants named, to be renewed annually by the general Court of Adventurers ; the sole trade to India to be granted to this Company, exclusive to all but such as shall come in upon the following terms :—1. To pay 20 per cent. of all adventures [they] shall send to East India, the said Company never to deny licence at any time to such persons as shall pay in to them the said 20 per cent. 2. That such persons as thus become adventurers to India shall, by paying the said 20 per cent., become members of the said Company, and shall be capable to be chosen governor, deputy governor, or assistant, and have a vote in the general Courts when [they] have, by paying the said 20 per cent., paid 1, 2, or 300*l*., as may be adjusted. 3. That the 20 per cent. shall be managed by the said company for the advantage of those who pay it in ; and out of it to pay the charge of forts and castles, if thought necessary to be maintained, and all other public expenses, and

when they have an overplus to make dividends, such adventurers to be entitled to shares thereof, according to their respective proportions and time paid in. Many other regulations may be necessary, as to act by a common seal, &c., which may be inserted in the charter, and some left to general Courts. Thus there may be a great stock in a short time to answer all pretences made for a joint stock, the trade made national, all may at all times come in upon as good terms as those before. All the adventurers will be as one body upon the same foot; the inconveniences of a monopoly prevented; complaints silenced; and the Dutch out-traded, because we shall, if [we] carry on the trade thus, probably undersell them in all places in Europe, which is the only way to beat any nation out of a trade. In India [they] must be kept in awe by the power we may hope to have over them here at home, and by the favour of the princes there; for it is impossible, considering what lands and ports [they] are in possession of, and how (they) exceed us in strength in those parts, to make our party good with them. Which is all humbly submitted to your Lordships' better judgments. [Delivered to and read by the Select Committee on 18 Feb., pursuant to their Order of 15 Feb. Com. Book.]

(*q.*) 1 April 1696. Mr. Shelden's Paper. Some things that perchance may be thought fit to be taken into consideration, upon the settling and regulating of a new East India Company, &c. First, that no discontents may be given to the members of the present Company, a reasonable valuation be made of their present stock. That whatever it amounts to be made up to 2,000,000*l.* by new subscriptions. That books be kept at several places, for any Englishman to subscribe what he thinks fit. That, if such subscriptions amount to a greater sum than can well be employed in the trade to East India, it be reduced to such a stock as shall be thought absolutely necessary for the carrying on of that trade to the best advantage by a proportionable deduction out of each man's subscription. That 500*l.* paid in have one vote. That 2,000*l.* paid in have two votes. That 3,000*l.* paid in have three votes, and so to 10,000*l.* ten votes; but that no person have above ten votes, though he hath above 10,000*l.* paid in. That no person have any vote for stock in trust. That there be a governor, deputy, and twenty-four Committee-men chosen, as formerly. That no person shall be capable of being governor, or deputy, unless he hath 2,000*l.* stock paid in. That no person shall be capable of being a Committee-man unless he hath 1,000*l.* paid in. That the Governor, Deputy, and Committee be chosen every year, and that they take the usual oaths to be true and faithful to the Company. That every person who desires to be concerned in the new company be obliged to take the usual oaths, and be made free by paying a small fine, before he have any credit for stock in the Company's books. That the Company may have power by their charter to make by-laws for the better managing of their affairs. That all such by-laws be approved of a General Court before they be in force. That, after they are so approved of, they be observed by all the Members of the Company, provided they are not contrary to the laws of the land. That every General Court and Committee be summoned by the Governor, or in his absence by the Deputy, and that either the Governor or Deputy be present at every General Court and Committee. That, upon debate in the General Court or Committee, if the voices be equal

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the Governor have the casting voice, and in his absence the Deputy. That, when both Governor and Deputy are present, the Deputy have only a single vote as a Committee-man, and that then the Governor have likewise a single vote as a Committee-man, and the casting vote besides, if upon debate the votes are equal. That the said Company may have the whole benefit of the trade to the East Indies and those countries mentioned in the charter of the present Company, and that none besides the said Company shall trade directly or indirectly to any place within the limits of their charter, under such forfeitures and penalties as shall be thought fit to be mentioned in their charter. That all transfers of stock shall be entered in a book kept in the accountant's office to be seen and perused by any person concerned in the Company's stock. Several other things may be thought on, and these may be better worded and put into some better methods when there is any certainty of having a new charter confirmed by Act of Parliament. The House of Lords and the House of Commons having declared by their votes that the East India trade is necessary and beneficial to this kingdom, and [that] the best way to preserve and carry on the said trade is by a Company united in a joint stock exclusive of all others, I hope the next thing they will please to consider of will be the settling and regulating the said stock and Company, and that it may and will be done without lessening, and indeed ruining, the said trade by prohibiting several sort of goods brought from India, especially wrought silks and calicoes. The reasons given for the doing of it are, as I am informed, because they are only curiosities and not necessaries; that the general use made of them doth very much prejudice and lessen our manufactures here in England, hinders the employing of our own countrymen, exhausts and carries our money out of the kingdom. But I desire those gentlemen who think so to consider whether it is possible to persuade or force the subjects of England, or indeed of any trading nation, from making the curiosities of those countries they trade to necessaries to them, or to be contented or satisfied only with what their own country produceth. But, if we were such angels as to be so governed, yet I cannot think it would prove so general and great an advantage and benefit to the nation as some are pleased to say it would be. I confess, if foreign manufactures were prohibited and none but our own were made use of, it might increase the quantity of our manufactures and the number of our weavers; but I am sure it would be some years before we could make sufficient quantities of goods to supply us, and, if they were of silk or cotton, they would cost us 50*l.* per cent. more than those brought from India. And, though upon such an encouragement some persons might leave their former employments and become weavers, and others choose rather to be weavers than of other trades, yet I cannot think more workmen in general would be employed than now are, for there is work enough for all persons, and no man in England need be idle unless he will. And whoever considers what manufactures of silk and linen we have in England (I am very sure) will not think the importations from India are so prejudicial to them as some say they are. I confess they do hinder the sale of those sorts of goods made in Italy, France, and Holland; but I suppose nobody will think it advantageous and beneficial to the nation to bring goods from those countries that may be brought from India much better

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and cheaper. For example, having no sarsenets, ducapes, taffetas, or plain silks for linings made in England, we formerly had them from Italy and France; but those we have of late years brought from Bengal are found to be more durable and useful, and are sold here in England for little more than half the price of those brought from Italy and France. As for linen, having no manufactures of fine linen here in England, sure no Englishman will be for prohibiting calicoes, unless he hath more kindness for the Low Countries than his own. And, if the King and Parliament thought fit to propose to the Dutch the prohibiting of calicoes here in England, I believe they would give a very considerable sum of money to have it done; for, though they could not bring calicoes to us, because they are prohibited, yet they would be assured we should carry our money to them for their lawns, cambrics, and fine hollands, which would be a great advantage to them, and as great a disadvantage to the subjects of England, because we should pay much dearer for their lawns, cambrics, and hollands than we did for our fine calicoes. I know several persons say that the trade and [?in] curiosities to and from India exhausts and carries away our money; but I desire those persons to consider that the East India Company can send out nobody's money but their own. And is it to be imagined they would send any out, unless they had very great reasons to hope it would return again to them here in England by the circulation of trade? I am sure everybody thinks the East India trade hath been very profitable; but how could it be so, if it carried away our money and did not bring it back again to us? I know the Company did, and do, send considerable sums in bullion to India; but they always contrived to bring into England as much as they thought they should be obliged to send thither, and, though perchance upon some sudden occasion they might be forced to buy bullion here in England, yet was it ever known that, by transporting it, they lessened the quantity of our money so much as to make the nation sensible of it? And, if a right calculation could be made of the value of those East India goods they have exported from England to other countries, I verily believe it would amount almost to as much as the value of the bullion they have sent to India, without deducting what would have been drawn from the nation by the commodities of other countries if we had not been supplied from India. And, as some persons blame the Company for increasing the trade by bringing in curiosities and goods not formerly brought from India, so others blame them for not having more improved it; though, I think, without reason, for, since the year fifty-seven, the trade hath been very much improved and increased. Perchance of late years it hath not been so, because the last Company was under such circumstances that it had not been prudently done of them if they had ventured and spent a considerable part of their stock for the improvement of a trade the future benefit of which they might lose the next session of Parliament; but, had their charter, with good regulations, been confirmed by Act of Parliament, no doubt but the East India trade had been in a much better condition than now it is. I therefore hope his Majesty and the two Houses of Parliament, having declared the trade to be necessary and beneficial to the nation, (that it may continue to be so) will settle it by an Act, and upon all occasions will encourage navigation and trade, which I am sure is a considerable branch of the riches, strength, and glory of England;

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and I think the East India trade to be a very beautiful blossom of that branch. And, as all nations aim at something, I heartily wish ours did at universal traffic and command at sea, and that all good counsels and endeavours for obtaining both were followed and encouraged. [Delivered to the Select Committee by Bp. London on 2 March, pursuant to their Order of 15 Feb., and read the same day. Com. Book. Reported to the House on 1 April. L.J., XV. 724, and MS. Min.]

(*r*) 1 April 1696. East India Company's answer to Mr. Pollexfen's Paper. In obedience to your Lordships' commands, we have perused and considered the long voluminous answer given in unto your Lordships, pursuant to your Lordships' Order of the 15th instant, wherein we humbly conceive the author's main design appears to be an invective against the trade to India in general, as disadvantageous to the nation. Had we no other testimony to offer to your Lordships that the trade to the East Indies is a profitable and advantageous trade to this kingdom than the unanimous vote of the Commons of England in Parliament assembled, after mature consideration thereof, this, we humbly conceive, was enough to have discouraged the author of this paper from publishing his opinion in opposition to so great and wise a body. But, the author having descended to particulars, we humbly crave leave of your Lordships to answer him in his own way. And, as to his first proposition, we say that the author is mistaken in matter of fact, when he alleges the Company's trade in manufactured goods and raw silk was a new trade till after the year 1670. We further crave leave to add that, the Spice trade having been wholly cut off from the English, by the great power and indirect ways of the Dutch, for above 60 years, and most part of the pepper trade by the loss of Bantam about 14 years since, the English Company have not been able to make any considerable investments but in the calicoes, silks, drugs, saltpetre, raw-silk, cottons and cotton yarn, goat's wool or carmania wool, and other products of India. To the second, we do with humble submission show to your Lordships that the liberty given for the exportation of bullion was the result of a Council of Trade soon after the restoration of King Charles the Second (the most of which Council were your Lordships' noble ancestors, peers of this realm), and not procured by the solicitations of the East India Company. But, had it so been, we do humbly conceive, and we do hope we shall in the sequel of this answer satisfy your Lordships, that liberty of exporting bullion in the trade to the East Indies is the great increase of the same. And, whereas the author suggests as if this was the only trade that required the exportation of bullion, he hath herein made a great mistake, nothing being more publicly known than that great quantities of bullion are wont to be exported in the trade to Turkey, the East Country, and other places. The author's accusation that the Company sent out throwsters, weavers, dyers, and other artificers, is the same that was formerly made use of against them by the Turkey Company before King Charles II. in 1681, whereunto that Company then gave the following answer: —"As to the accusation of sending throwsters, weavers, and dyers, the East India Co. say the whole accusation is a mistake, except only as to one or two dyers, which they have usually sent to the Bay of Bengal, and no other part in India. Nor would they have sent any thither,

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but that they did believe, and think they are able to prove to your Lordships, that it was for the nation's as well as the Company's advantage, especially as to the plain black silks, which they principally intended, and such are generally a foreign commodity here, very few or none being made in England." To the 3rd, 4th, 5th, 6th, and 7th propositions that [? as to] those several enumerated commodities which the author represents as too much interfering with the woollen, silk, and linen manufacturers of this kingdom, both as to the consumption here and exportations abroad, we answer that this is no doubt true in matter of fact; but we humbly conceive it may with as much reason be argued that all foreign commerce is prejudicial to the common interest of England, for that without it we should, and have wherewithal to, feed and clothe ourselves, and thereby keep our own people in full employ. And we cannot but observe to your Lordships how short-sighted the author hath been herein, or how little he hath considered that, should these several commodities be prohibited importation directly, the French, Dutch, and Scotch would soon furnish us with them at a far greater price, when we should to our cost find that the strictest prohibition could not hinder from purchasing Indian and other manufactures at extravagant prices; instances of which are seen daily in the great quantities of French and Flanders laces and French silks which are worn here, and (since the unhappy loss of the Company's ships) of fine muslins, &c., which are imported and run in without Custom from Holland. The 8th and 9th propositions make the trade of India interfere with other foreign trades. We wish the author had linked hereto the tenth proposition, wherein he commends the ingenuity and parsimony of these natives of India, and cheapness of their products; and then we humbly submit it to your Lordships' great judgment, whether is best for the interest of England to go to a dear or a cheap market for the foreign wares we stand in need of. And this, we conceive, does not otherwise operate upon the English manufactures than the silks and linens from Italy, France, Holland, and Germany, only with this difference, that those are imported to us much dearer, and with not above one half of the Customs, or one tenth of the freight, which the Indian silks and calicoes pay, which is all net profit to this kingdom. We might make an argument to your Lordships that this trade, as it hath been driven on by a joint-stock, hath employed great numbers of defensible ships, and that, in the time of their full trade, there hath been near 100,000*l.* per annum paid to them, the greatest part of which is net profit to this kingdom. And we might easily show to your Lordships that this trade is more for the advantage of and more necessary to England than to any other kingdom, in regard that France and Holland, our chief competitors herein, depend much more than we do upon the fabrics of linen and silks, yet do not discourage their Indian trades; and it is certainly the interest and advantage of England to have silks and linens from the cheapest markets, whereby we impoverish our neighbours by supplying ourselves and them with such goods as work against and beat out their manufactures. To the 11th proposition, we take leave to assure your Lordships that the author hath made a very wild guess at the exportation of so much bullion and manufactures to India, the Company having not annually sent out so much as 400,000*l.* sterling of bullion and manufactures, computing one year with

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another. But this we observe is to usher in his 12th proposition, wherein he suggests his doubt whether the one half thereof be again exported, and consequently that the nation must be at the expense of 400,000*l.* per annum in Indian commodities, which he comes to in his 13th and 14th propositions, whereto we do answer that, when the Company had the most free and uninterrupted trade, their sales never amounted to one million per annum, excepting one year; that, by the nearest computation, at least two thirds of their imports were exported again, which must bring in at least double of the first cost in India. And whether, according to this calculation, there must not be near twice as much bullion (or what would cost us our money) imported again by the benefit of this trade, to the addition of the stock of the kingdom, your Lordships will be able to judge. And, further, your Lordships may please to observe that the annual charge of the Company for the carrying on this trade is about 100,000*l.*, which is born out of the trade, and so much got by the subjects of this kingdom in their service here and abroad. The 15th and 16th propositions press very hard for a prohibition of goods manufactured in India, wherein we presume the author hath made a very false step in his theory of trade, and builds upon a very weak hypothesis, it being an undeniable maxim, and what is the general practice and policy of all trading countries, that trade ought not to be limited or restrained, but left to its free current; nothing being more visible than that, if it be stopped or dammed up in one part, it will overflow in another. Thus we see, in the present prohibitions of French wines and linens, the expense of those sorts of commodities is not lessened in consumption here, but they are brought in upon us from other countries at much dearer rates; and, since the scarcity of calicoes, occasioned by the severe losses of the Company's ships, we find the want of them is supplied by the linens of Holland, Germany, and Poland, which are worn and used in lieu thereof, and cost us, it may be, thrice as much as our expense for those uses has been in calicoes. How far this will answer his 17th, 18th, and 19th propositions, we must humbly submit to your Lordships, whereby he seems to foretell the ruin of our fabrics and artificers, should an East India trade be settled by an Act of Parliament in a company by a joint stock without restrictions, and grounds his argument from the present ill circumstances in respect to the coin and scarcity of bullion. Your Lordships will herein judge for us that, when the East India trade was driven to its height, we never had so great plenty of bullion and silver money in England as then. And, had the present Company's ships arrived in safety, we should have by this time found above a million of money more than we now have, or, at least, less sent out for the balance of our expense and charge. This policy appears to us no better than his, who, having found a liberal mine, would yet, for good husbandry's sake, shut it up to save the expense in working it. We cannot but observe to your Lordships how the author concludes his paper, after a great deal of political discourse about trade, and the danger of erecting corporations for carrying on thereof; and that he hath laid down for argument that joint stocks are narrow interests, and will never trade at large, but content themselves with great profit on a small stock, and that therefore the leaving this trade to the East Indies open, or settling it in a regulated company, would be the best way of

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having it improved, and of managing it to its full extent; this, he says, would prevent his before-mentioned threatened evils. In this conclusion, we humbly conceive, the author has fully discovered both the weakness of his arguments and the strength of his inclination; for, says he, the trade is dangerous to the fabrics and artificers of England, though limited and circumscribed in a joint stock, but the trade, when carried on to its full extent by a regulated company, when there will be much more bullion sent out and more of the product and manufacture of India brought in, then will the evils threatened to our fabrics and artificers cease. We have here a large field to expatiate on, and might show your Lordships the incongruity of this paper and the disingenuity of the author, not only in borrowing a malicious satire against all corporations, but in pressing his opinion against the great judgment of your most Honourable House. But we shall choose rather, with humble submission, to lay before your Lordships our opinion as to the fabrics of England, that, so far as this nation increases in the manufactures of silks and linens, so far, in all probability, shall we find the decrease of our woollen manufactures; and whether it is not more eligible to make our staple of our own than of foreign materials, your Lordships will judge. Our noble staple of wool would, no doubt, yet admit of a vast improvement, and employ all the artificers in England, but whether the benefit they find by increased wages upon the silk and linen manufactures may not, in time, much lessen, if not wholly destroy, our foreign trade in woollen goods, is much to be feared; and it may with great truth be affirmed that nothing will so effectually keep up the price of wool as the cheap and full manufacturing thereof. It may further be observed how these fabrics have drained the country of its inhabitants, there being hardly found enough to carry on the woollen manufactures and husbandry, though at excessive wages, which we humbly conceive may be of dangerous consequence; and with humble submission we think nothing can tend more to the destruction of this so profitable and most valuable trade of the woollen manufactures than the excessive prices they are brought to, which will encourage our neighbours to fall upon the same fabrics, and which have within a short time increased to a great degree in Scotland, Ireland, France, Holland, and some parts of Germany. Your Lordships, we humbly hope, will excuse us that we answer not to the many calumnies which the author heaps upon the East India Company, since this regards the former Company and hath no reflection upon the present; but his dislike of ten men having so great a part of the stock looks more like envy than argument, and is more agreeable to the principles of Levellers than merchants, whose emulation in trade is commendable, and whose spur to industry is hope of increase. Your Lordships will see the little good that prohibitions in trade have done; the severe prohibition of money from Spain is a lively instance thereof, and may it not be expected, and is it not daily seen, that all nations take their measures from the practice of those they trade with, and immediately find [means] to make reprisal for all impositions on, or prohibitions of, their product and manufactures? Your Lordships upon these considerations, will, we doubt not, conclude, with your own resolution, that the trade to India should be carried on by a joint stock, and we hope we have satisfied your Lordships that this trade is a profitable and advantageous trade to this nation. All which

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is humbly submitted to your Lordships' great judgment and further consideration. *Signed* (by order of the Governor and Company) Ro: Blackborne Secy. *Dated* East India House, 27 Feb. 1695. [Delivered to Select Committee on 2 March, pursuant to their Order of 19 Feb., and read same day. Com. Book. Reported to the House on 1 April. L. J., XV. 724, and MS. Min.]

(*s*) 1 April 1696. Estimate of the East India Company's stock on 21 Feb. 1695, as follows—

Creditors:					£	*s.*	*d.*
By Lead 9,000 Maunds remaining at Surat as by advices lately received thence					2,531	5	0
By Money owing by the Great Mogul besides interest as by advices lately received thence					8,212	10	0
By Cloth sold out of the *Modena* in Persia the effects whereof not yet returned, as by advices lately recvd. thence					13,440	0	0
By Good Debts and Remains at Surat and on the Coast of Malabar and in Persia, vizt.							
At Broach as by Surat books E.E.	Rupees		20,168	6			
Carrwarr [Carwar] as by their books F.F.	pagodas	23,406 is	93,624	0			
Calicut as by their books X.	fanhams	256,858	73,388	0			
Bombay as by their books R.	Xeraphs	256,463	192,317	0			
Gombroon [Gombron] as by their books F.F. G.G.	Shahees	1,323,080	196,012	0			
	Rupees		575,539	6	is Sterling	64,74	2 11
By Good Debts and Remains at Fort St. George and subordinate factories, vizt.							
At Fort St. George as by their books K.K.	pagodas		74,985	0			
Vizagapatam as by their books K.			21,214	0			
York Fort as by their books F.	Ryalls	33,344	18,524	0			
Fort St. Davids as by their books B.			22,442	0			
Tonqueen as by their books Q.	tale	18,660	13,822	8			
Ditto more as by Fort books K.K. sent thither since			6,018	32			
	Pagodas		157,006	4	is Sterling	70,652	15 0
By Good Debts and Remains in the Bay of Bengal vizt.							
At Chutanuttie as by their books L.L.	Rupees		371,737	1			
Cassumbuzar as by their books L.L.			34,862	15			
Maulda as by their books L.L.			259,618	0			
Decca[n] as by their books X.			104,672	0			
Pattana, nothing but Dead Stock			—				
Ballazore as by their books Q.			97,913	0			
	Rupees		868,803	0	is Sterling	108,600	7 6

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	£	s.	d.
By Good Debts and Remains at St. Helena as by their books No. 24	721	4	0
By the yearly Customs at Gombron of 1,000 tomands at 3*l.* 6*s.* 8*d.* per tomand amounts to 3,333*l.* 6*s.* 8*d.* (as by their last books F.F. and G.G. which at 10 years purchase is	33,333	6	8
By Revenue at Fort St. George as by their last books K.K. 9,902*l.* per annum at 10 years purchase is	99,020	0	0
By ditto at Bombay as by their last books R. 9,538*l.* per annum at 10 years purchase is	95,380	0	0
By ditto at Fort St. Davids as by their last books B. 3,948*l.* per annum at 10 years purchase	39,480	0	0
y fifteen ships now in India upon their return home, their cargoes amounting to	543,771	11	8
By five per cent. for contingent charges in investing the said 543,771*l.* 11*s.* 8*d.*	27,188	11	7
By fifty per cent. advance on the aforesaid 543,771*l.* 11*s.* 8*d.* in consideration of the great advance in the price of bullion and all other English commodities then carried out and also of the interest and insurance and the profits to be made on the sale of those cargoes in India	271,885	15	10
By Fort St. George, Fort St. David, the Island of Bombay and St. Helena, Bencoolen on Sumatra with the buildings at and on all the chief and subordinate Factories which are settled and supplied with Factors proper Officers and Soldiers together with the Ordnance mortars arms & ammunition with other Stores and all the Capitulations Privileges and Immunities purchased at a vast expense in the several places within the limits of the Company's Charter	370,000	0	0
By four ships now at Spithead and the *Samson* in the Downs, their cargoes amounting to	239,580	17	3
By five per cent. for contingent charges of investing the said 239,580*l.* 17*s.* 3*d.*	11,979	0	10
By the Company's parts as owners of seven ships	16,436	1	1
By Imprest Money to the owners of several ships now in the Company's service	31,560	6	0
By Leases and buildings in London	9,600	0	0
By Debts due in England	23,576	6	11
By Cash remaining the 20 February, 1695	61,532	5	10
By Goods bought, shipped and ready to be shipped	72,179	7	11
By five per cent. Contingent Charges of investing the said 72,179*l.* 7*s.* 11*d.*	3,608	19	5
By Remains in the Warehouses unsold	5,390	0	0
By Stock belonging to the General Adventurers 149,432*l.* 19*s.* 6*d.* valued at 75 per cent.	112,074	14	8
	£ 2,336,483	10	1

By the advance that may reasonably be expected by the Company on the return of their 15 ships now abroad.

By the Debts owing in England to the Company from several persons now in controversy about 60,000*l.*

By several Doubtful Debts remaining in India, not included in the above-mentioned articles, 142,541*l.* 14*s.* 6*d.*

Debitors:

For the Debt owing at Surat, with all interest due to the 16 January, 1694, as by advice lately recd. thence	257,062	10	0
To Money in England owing on their Seal at interest until the 20 February, 1695	817,127	3	7
To Money due for interest since the 30 September last	24,000	0	0
To Money due for Custom	7,522	15	5
To Money due for Freight and Demurrage not yet adjusted	5,269	0	0
	£ 1,110,981	9	0
To Balance	1,225,502	1	1
	£ 2,336,483	10	1

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To Money demanded of the Company by sundry persons in controversy 25,000*l.*

London the 21 February, 1695.

I assert this to be a true Accompt according to letters and books received from India, and our books here, only the several articles of valuation are done by the order & direction of the Governor, Deputy Governor & Committee of the East India Company.

Signed Francis Beyer. [Delivered to Select Committee on 11 March, pursuant to their Order of 6th, and read the same day. Com. Book. Reported to the House on 1 April. L. J., XV. 724, and MS. Min.]

(*i*) 1 April 1696. Mr. Pollexfen's Observations on preceding paper.

In obedience to your Lordships' Order of the 14th this instant March, have perused the paper laid before your Lordships by the East India Company, being an account of what stock they have, and of what debts they owe; and upon such articles as are liable to objections, have made the following observations, which in all humility submit to your Lordships' judgment and correction.

	£	*s.*	*d.*
The 2nd article on the Credit side, the Debt charged owing by the Great Mogul, appeared to be but an old pretence, not likely ever to be recovered, therefore recharge it, being - - - - - - - - - - - -	8,212	10	0
The 4, 5, 6, 7 articles amounting to 244,722*l.* 9*s.* 5*d.* for good debts & remains in the Subordinate Factories of Malabar and Persia, Fort St. George, Bay of Bengal and St. Helena appear to be for dead stock and remains of accounts brought from book to book, for several years past, no accounts from Malabar since ann. 1687, and the rest so uncertain and liable to so many objections as are not likely to be worth 100,000*l.*, therefore recharge - - - - - - - - - -	144,722	9	5
The 8, 9, 10, 11 articles for Customs and rents at Gombron, Fort St. George, Bombay and Fort St. Davids, amounting to 267,193*l.* 6*s.* 8*d.*, and the 370,000*l.* charged in the 15 article for the said Forts & Islands of St. Helena, all amounting to 637,193*l.* 6*s.* 8*d.*, it is humbly conceived may be reduced to 50,000*l.*, because the Company cannot pretend to the said Forts and Islands nor Customs and rents as an inheritance, but as intrusted to them for public good, a dissolution of the Company bringing them to the King, of course, and paid to the former Company only 20,000*l.* for Fort St. George, Island of Polleroon [Poleron], Bantam and other places of more importance than what now have, and the Custom and quit rents many came with, and are so annexed to the said Forts as cannot be separated, the titles to most precarious, and the charge in receiving the said rents amounting to more annually than the said rents and Customs, allowing the sum of 50,000*l.* out of the sum above mentioned, recharge - - - - - - -	587,193	6	8
The 14 article of 50 per cent. advance on the Cargo of 15 ships, being no advice is yet come of the arrival of 4 of them, it's supposed 25 per cent. may be sufficient for interest and insurance, the 5 per cent. being admitted charged for contingent charges, therefore recharge -	135,942	17	8
The last article, being for stock belonging to the general Adventurers, 149,432*l.* 19*s.* 6*d.* charged, at 75 per cent., ought not to be computed at more than what the Stock is found now to be worth, which, at most, may be about 25 per cent., therefore recharge - - - - -	74,709	16	4

	£	s.	d.
57,000*l.* which was sent out by the *Thomas*, one of the 15 ships whose Cargoes are allowed in the account, was laid out and employed, as is supposed, to load the *Resolution* and *Defence* which were taken by the French coming home, and thereby the cargoes of those ships are sunk so much, therefore recharge the said - -	57,000	0	0
	1,007,781	0	1
The Balance of the East India Company amounts to -	1,225,502	1	1
Abating as above - - - - - - - -	1,007,781	0	1
Remains as Stock clear - - - - -	217,721	1	0

The 16 March, 1695[-6].

Signed John Pollexfen.

[Delivered to Select Committee on 17 March, pursuant to their Order of the 14th, and read the same day. Com. Book. Reported to the House on 1 April. L. J., XV. 724, and MS. Min.]

(*u*) 1 April 1696. Mr. Shelden's Paper in answer to Paper (*s*),

Creditors:	£	s.	d.	£	s.	d.
By the Cargoes of 15 Ships now in East India, it appearing by the Company's books and the testimony of those employed in the buying of the goods contained in the said Cargoes that their prime cost did really amount to - - - - - - -	543,771	11	8			
5 per cent. for contingent charges, being a proportionable share according to the value of the said 15 Cargoes, the said charges being for what is annually paid the Governor, Deputy and 24 Committee men likewise for salaries and wages to their officers and servants, warehouse room and other expenses the Company is annually at here in England, for the discharge of which I think 5 per cent. may be reasonably allowed, amounting to - - - - -	27,188	11	7			
50 per cent. profit on the adventures in the said 15 ships, which I think may be allowed in consideration of Interest, Insurance, Salaries and allowances to Factories in India, presents to Governors, profit upon the goods in the said ships, and in consideration that the present Company is not to have any future benefit or advantage upon the returns of the said ships, the said 50 per cent. amounting to - - -	271,885	15	10			
				842,845	19	1
By the Cargoes of 4 ships at Spithead and the *Samson*, the Company making it appear by their books and other good testimonies that the prime and real cost of the said Cargoes did amount to - - - -	239,580	17	3			
5 per cent. for Contingent charges, being a proportionable share according to the values of the said Cargoes, the said 5 per cent. amounting to - - - - -	11,979	0	10			
				251,559	18	1
By Shipping for the Company's shares in 7 ships, if the said ships are now in being and the said shares really worth - - - -				16,436	1	1
By Impress money, the Company making it appear they have really paid upon that account - - - - - - - - - - -				31,560	6	0

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	£	s.	d.	£	s.	d.
By Leases and Buildings in London, if so let and made use of as that they may be reasonably valued at				9,600	0	0
By Debts in England, if made appear to be good				23,576	6	11
By Ready money in Cash				61,532	5	10
By Goods bought, some of which are shipped and the rest ready to be shipped, the Company making it appear by their books and other good testimonies that their prime and real cost amount to	72,179	7	11			
5 per cent. for Contingent charges, being a proportionable share according to the value of the said goods, and amounts to	3,608	19	5			
				75,788	7	4
By Goods in the Company's Warehouse, it being made appear by their books and other good testimonies that they really cost and are worth				5,390	0	0
By Stock belonging to the General Adventurers 149,432*l.* 19*s.* 6*d.*, and if the Company makes it appear that the said Stock was really and not notionally paid, in the said Stock, may be reasonably valued at 60 per cent., amounting to				89,659	15	4½
By Sundry Accounts for good Debts and Remains in East India, as appears by their Books of Accounts sent from thence :						
By Cloth sold out of the *Modena*	13,440	0	0			
By 9,000 Maunds of Lead remaining at Surat, and valued at (£ s. d.) 2,531 5 0						
Good Debts and other Remains there amounting to (£ s. d.) 64,748 2 11						
	67,279	7	11			
By Good Debts and Remains at Fort St. George	70,652	15	0			
By Good Debts and Remains in Bengal amounting to	108,600	7	6			
By Good Debts and Remains at St. Helena amounting to	721	4	0			
				260,693	14	5

But whether the present Company shall be allowed what they value their said debts and remains at, I humbly submit to your Lordships' consideration, that which makes it seem the more reasonable they should, is because not only several of the Committee who have the reputation of very worthy men but their accountant, thought by every body to be a very honest man, affirmed in the account delivered to your Lordships the Company hath not credit for any bad debt or dead stock, and I find an Article not entered to their credit but at the foot of their account wherein they make their doubtful debts amount to 142,541*l.* 14*s.* 6*d.* which they do not desire to have credit for.

By their Forts, Factories which they value at [£]370,000, a sum that perchance may be thought more than they are worth, but considering the great charge and expense they have been at, both at Fort St. George, Bombay, Fort St. Davids and for Ordnance, Arms, Ammunition and Stores in those Forts and in building and settling Factories in most parts [of India, perchance] your Lordships may think it reasonable (I confess I do) to allow them for their said Forts				150,000	0	0

	£	s.	d.	£	s.	d.
By Revenues at Fort St. George, valued at 10 years' purchase, amounting to	99,020	0	0			
At Bombay	95,380	0	0			
At Fort St. David	39,480	0	0			
At Gombron	33,333	6	8			
				267,213	6	8

I think the said Revenues at 10 years' purchase are valued too high, but I leave it to the consideration of your Lordships, who are the best judges, and I am sure will be so just to the Company as to allow them what you think the said revenues are really worth.

By the Great Mogul, whose debt I thought desperate, but by what I heard some of the Company and their Accountants say before your Lordships I am in hopes it will not prove so. For, if the Company is to pay money at Surat and have the Mogul's order to deduct what he owes them, I am very sure those that receive the money of the Company will be very willing to allow the Mogul's debt of	8,212	10	0
Debtors:	£	s.	d.
For the Debt owing at Surat with all Interest due to the 16 Jan. [16]94, as by advice lately received thence	257,062	10	0
To Money due in England owing on their Seal at Interest until the 20 Feb. 1695	817,127	3	7
To Money due for Interest since the 30 September last	24,000	0	0
To Money due for Customs	7,522	15	5
To Money due for Freight and Demurrage not yet adjusted	5,269	0	0
	1,110,981	9	0
To Balance	707,661	5	1
	1,818,642	14	1

To which Balance is to be added what your Lordships shall think reasonable to be allowed for the Revenues at Fort St. George, Bombay, Fort St. Davids and Gombroone [Gombron].

Likewise what is due from the Great Mogul, if the Company have given your Lordships any reason to believe the debt he owes will ever be paid.

To Money demanded of the Company by sundry persons in controversy 25,000*l.*

London the 21st February.

[Delivered to Select Committee on 17 March, pursuant to their Order of 14th, returned to Shelden to be corrected, and delivered again and read on 18th. Com. Book. Reported to the House on 1 April. L. J., XV. 724, and MS. Min.]

(*v*) 1 April 1696. Account of the hearing of the East India Company, Mr. Pollexfen, Mr. Shelden, and Capt. Gifford, before the Select Committee on 17 and 18 March, reported to the House this day. It is as follows:—The Committee giving the East India Company leave to speak to the several Articles in Mr. Pollexfen's paper, they answered to the effect following:—To the first Article, concerning the debt owing them by the great Mogul, they said that debt would be paid to them when they paid the much greater debt owing by them at Zarat [Surat]. This is but a new debt; it was when they were at war with the Mogul; and to make it out they produced a letter dated 15 November 1694. To the next Articles, vizt. 4, 5, 6, 7, they say they have cast out their bad debts in the account. They want their books from Zarat. They could neither have their letters nor books again, which were taken by the French in the *Modena*, though they solicited often

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and earnestly for them. Capt. Gifford also informed their Lordships that the Captain in the *Princess*, in which were the books and letters belonging to the Company which were taken by the French, endeavoured to have got the said books and letters again, but could obtain neither, nor could Capt. Gifford prevail to have his own books or papers, taken from him in the *Seymour*. They say they have had no ships come home with dead freight. They say the old Company agreed with the Armenians to bring home goods at 18*l.* per cent.; but the new Company never did any such thing. At Fort St. George debts have always been due to the Company, as will, they say, appear by their books. To the 8, 9, 10, and 11 Articles, the Company say they are at a charge in collecting their revenue, which is risen much of late years. When the King determines this Company, their successors they hope must pay them, for they will have the inheritance; but Mr. Pollexfen told them they never claimed this as an inheritance before now. They say they have spent 100,000*l.* in endeavouring to retrieve the pepper trade. Every particular fort hath had additions made to it. Above 100,000 inhabitants in India pay them rent, and in seven years more the number may be double what it is now. They say their rents are worth more than 10 years' purchase, because 100*l.* here carried to the Indies is worth 120*l.*, and 100*l.* carried to Barbadoes and those plantations will bring but 80*l.*, by reason of hurricanes, and rents there are valued at seven years' purchase at the least. Some of the grants, they say, are made to the Company, others of them to the English nation, by which they mean the Company, for they know no other English nation. They say the charge of maintaining their forts has been defrayed out of the advantage of the trade. Their rents, they say, have arisen within seven years. The charge is somewhat equivalent to the rents, but it is no other than private persons that trade thither must be at, with factors. To the 14th Article, they say they are offered at this time by the merchants 150*l.* per cent. for their ships now at India. That when these ships return they will receive a good market here, by reason of their late losses. To the last Article, they say they submit that to the valuation of their stock. In answer to the last paragraph, a letter to the Company, dated at Zarat, January 16, 169$\frac{4}{5}$ is read. It shows that the *Defence* and the *Resolution* were not laden by the *Thomas*, for that they were laden at Zarat when the *Thomas* was at Bengal. Mr. Shelden and Mr. Pollexfen being asked whether a list of the subscribers to the present East India Company, and what each of them have subscribed, would not be the best information to know the true value of the stock of the said Company, they said that would give no light what the stock is; it would only inform what originally it was, but not what is the present value. [See Com. Book, 17 and 18 March. Reported 1 April. L. J., XV. 724, and MS. Min.]

956. Dec. 3.—Griffith *v.* Harries.—Petition and Appeal of Jenkin Griffith, clerk. Petitioner, owing Hugh Harries 900*l.* for law charges, gave him a lease absolute of the glebe and tithes of his vicarage of Lanellen, Monmouthshire, worth 27*l.* a year, as a mortgage, and a lease of his Rectory and tithes of Langattock juxta Usk, Monmouthshire, worth 80*l.* a year, in trust, for payment of the debt. Harries refused to come to an account, pleading a general release to 1st May 1685, and insisting that the lease of Lanellen was no mortgage but an absolute estate. He obtained a Decree against which Petitioner appeals.

1695. — No. 956.

Signed by Petitioner and *countersigned* W^m^. Dobyns, Fran : Browne. L. J., XV. 602. [At the hearing together of this Petition and that of Jenkin Griffith and John Morris (No. 957) *Sir Bartholomew Shore* and *Mr. Dobyns* were heard for the Appellant, and *Sir Wm. Williams* and *Sir Tho: Powys* for Respondent. Appellant had paid 150*l.* for the vicarage of Langattock. Respondent pleaded a release. MS. Min.]

Annexed :—

24 Dec.—Answer of Hugh Harries, Gent. The lease of Lanellen was an absolute purchase, and he gave more for it than it was worth. Has also had to provide a curate during Appellant's long absence. Respondent enjoyed it quietly for 6 years until one John Morris, an attorney, instigated Appellant to disturb him. Appellant has made himself a prisoner in the Fleet on a judgment obtained by Respondent, but is at large. Respondent has not received anything from Langattock except on account of Jane and Frances Watkins. Appellant has brought his Appeals (*see* next No.) separately in order to increase expense. *Endorsed* as brought in this day. (*See* L. J., XV. 637.)

957. Dec. 4.—Griffith and Morris *v.* Harries.—Petition and Appeal of Jenkin Griffith, clerk, and John Morris, Gent. (*See* No. 956.) The lease to Harries of Lanellen was a void lease, and Griffith leased the premises to Morris, who brought an ejectment against Harries. Harries, however, obtained a Decree giving him the quiet possession of the premises during Griffith's life. Appeal against the said Decree. *Signed* by Appellants and *countersigned* W^m^ Dobyns, Fran : Browne. L. J., XV. 603. [Heard together with Griffith's other Appeal (No. 956) and judgment delivered on 10 Jan. 1695–6. L. J., XV. 637.]

Annexed :—

(*a*) 24 Dec.—Answer of Hugh Harries, Gent. The lease of Lanellen was an absolute purchase, and Morris had full notice of it before his pretended lease. *Endorsed* as brought in this day. [*See* L. J., XV. 637, and MS. Min., 10 Jan. 1695–6.]

(*b*) 27 Dec.—Brief to move to have the two Appeals heard the same day. Sets out the circumstances of the two Appeals. *See* L. J., XV. 622.

958. Dec. 4.—Parkyns' Estate Act [H.L.].—Amended Draft of an Act for enabling Sir Thomas Parkyns, Bart., to sell certain messuages, lands, and hereditaments in Huby and Easingwould in the county of York, and for settling other lands and hereditaments of greater value in lieu thereof. A clerical amendment was made in each House. [Read 1^a^ this day ; Royal Assent 21 Jan. following. L.J., XV. 603, 647. 7 & 8 Will. III. c. 6. in Long Cal. *See also* Com. Book, 10 Dec.]

Annexed :—

(*a*) 10 Dec.—Consent of Sir Thomas Parkyns and Dame Elizabeth Parkyns, *dated* 18 Nov., and *attested* by Wm. Pierrepont, John Thornhagh, Jo : White and Ric^d^ Slater. Also consent of trustees of Dame Elizabeth Parkyns. *Signed* Will : Frankland, Tho : Wakefeild, Jno : Clegg. *Attested* as to Frankland by Leo : Smelt, Geo : Skaife, Hen : Jackson ; as to Wakefeild and Clegg by Ch^r^ Goulton, B. Walters, Jo : Ashey. [Produced before the Select Committee this day. Com. Book.]

(*b*) 10 Dec.—Affidavits of Samuel Parsons as to the value of the Yorkshire Estate, and of Gregory Wilmot as to the value of the Lincoln shire Estate. *Sworn*, 20 Nov. before Tho : Thomson. [Produced before the Select Committee this day. Com. Book.]

1695. — No. 959.

959. Dec. 6.—Naval Miscarriages (Merchants' Losses at sea).—Papers connected with the enquiry into Merchants' losses at sea, which began with a Resolution of the C. W. H. on the State of the Nation this day. *See* L. J., XV. 606.

The MS. Min. and Com. Book supplement the Journals as follows:

I. Merchants and the Admiralty (Papers *a* to *s*).

On 6th December, in C. W. H., it was *moved* that the East India Company and others lay before the House the great losses they have had by sea. *Resolved*, That the East India Company, &c., lay before this House an account of their losses this last year. After some time, the House was resumed, and E. Huntingdon reported the Resolutions, as in L. J., XV. 606. (MS. Min.)—Accordingly, on 10 Dec., at the Bar, the following accounts in writing were delivered by the merchants:—

	£.
1. The East India Company - - -	1,500,000 (Paper *a*).
2. The Barbadoes Traders - - -	387,100 (Paper *b*).
3. The New England Merchants - -	114,000 (Paper *c*).
4. The Levant Merchants - - -	No loss (Paper *d*).
5. John Gardner's losses - - - -	13,300 (Paper *e*).
6. Pennsylvania Merchants - - -	11,800 (Paper *f*).
7. Leeward Islands Merchants - - -	138,000 (Paper *g*).

which papers being read, the East India Company's papers read. *Proposed* to ask them whether they conceive those losses did arise for want of cruisers? The *East India Company* called and asked the question. *Answer*, There were very few cruisers. Second question, Whether they made application for cruisers? *Answer*, We made application for cruisers, and we gave account of Nesmond's being out. We were answered that there was a considerable number of cruisers abroad. We made application several times after in expectation of the other ships, and there were cruisers sent by Hobson [?Hopson], but whether they went so far or not, I cannot tell. Asked, if they made application in writing, they say, Always in writing. Asked, if they keep a book of their actions in this case, they say they have most in writing. *Ordered*, That the East India Company do lay before this House what applications they made to the Commissioners of the Admiralty for cruisers, and what answers they received from them. The Company were called in again and told by the Lord Keeper, That you draw up in writing, and lay it before the House, all the transactions between you and the Admiralty in writing. The Barbadoes Paper (*b*) was read, and the *Merchants* called in and asked to give account where the ships were lost. The *Content* ship, lost at Barbadoes by a hurricane. The *Plymouth*. Where those ships were lost, and what they conceive the reasons are. They delivered a Paper (*b*[1]), which was read. Asked, whether they made application for cruisers. *Answer*, We made application the 26 July. Another paper was delivered and read. They were ordered to deliver a particular account on Friday next. Then the *New England Merchants* were called in and were asked the former questions, and ordered to give account in writing on Friday next. *Pennsylvania Merchants* called in. They made the same application as the Virginia Merchants. Leeward Islands read, and they called in and asked as before. *Answer*, We never made any particular application. We will set down the manner (?) of the loss of every ship. A Paper (*h*) was delivered fromthe Jamaica Merchants, and read. They were called in, as the former, and told they must deliver, on Friday next, the times when and where the ships were taken. A

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Paper (*i* and *i*[1]) delivered from the Royal African Company, and read. They were called in, and told they must set down the time of the loss of the ships. (MS. Min.) On 13 Dec. Papers were delivered by (1) the East India Co. (Papers *k*), (2) the New England Merchants (Paper *l*), (3) the African Co. (Paper *m*), (4) the Barbadoes Merchants (Paper *n*), (5) Jamaica, and (6) the Leeward Islands (Paper *o*). In C. W. H. on the Papers delivered on 10th, E. Huntingdon in the chair, the Paper delivered this day from the East India Co. was read. The New England Paper read. (MS. Min.)—On 14 Dec., in the Select Committee on the above Papers, they were read. Part of the two Acts relating to cruisers is read. The Paper concerning the East India Co. to be sent to the Admiralty, all the particulars therein being such as require particular answers. As to the New England Paper, to be sent to them to require their answer to the complaint that there were not cruisers in the Channel, according to the Act of Parliament, most of their losses having happened in the Channel. As to the African Company, to give answer to all the losses therein, except the first two. As to the Barbadoes Merchants, to answer why those eleven ships [the first eleven] were detained five months after the time appointed for them to sail, till the season of the year came in which the hurricanes usually happen. As to the next sixteen (viz., Nos. 20 to 31, 34, and 37 in Paper *b*), why the Barbadoes Merchants had no convoy, and why the cruisers stayed not out in their stations, according to the desire of the Merchants. As to the Leeward Islands Paper, no time being expressed when they had their losses, to be sent back to them to have it further explained. As to the Merchants trading to the Leeward Islands, no application having been made by them to the Admiralty for cruisers, the Paper not to be referred to the Admiralty, save [as] to the *Antigua Merchant*. As to the *Antigua Merchant*, taken February 1694–5 out of Berehaven in Ireland, how that ship came to be lost, and what care has been taken of the coast of Ireland. *Proposed* that the House be moved that the Admiralty give account how the cruisers and convoys were disposed the last year (see Paper *p*[2]). *Ordered* that Report be made of these particulars to the House. (Com. Book. Cf. L. J., XV. 613.)

On 6 Jan., at the Select Committee on the Papers delivered by the Admiralty on 27 Dec., L. Ferrers in the chair, the Paper marked No. 1 (Paper *p*[1]) was read. On consideration of the first paragraph, it was ordered that the House be moved that His Majesty be applied to that such applications as were made to the Council touching the stop of the Barbadoes Fleet on the 19 April 1694 to 7 May following, with account of what was ordered thereupon in Council, may be laid before the House. Part of the Paper delivered in by the Barbadoes Merchants 9 Dec. (10 Dec., Paper *b*) last was read. *Proposed* that Sir Jo: Houblon be asked why the Barbadoes Fleet was detained three months and a half before the 19th of April '94 after it was ready, and why they did not sail after the embargo was taken off. The Papers given by the Admiralty, in answer to the Order of 14 Feb. the last Session, to be here at the next meeting. The Order of 14 Feb. 1694, and the Admiralty's answer to it, were read. The abovesaid Report and Question are postponed. *Ordered* that Rob[t]. Heysham, Edward Haistwell, Rowland Tryon, and Stephen Skynner, Barbadoes merchants, do attend on Friday. *Sir John Houblon* and the two Secretaries to the Admiralty are called in. They are asked what years they mean when they say, in their answer to the first Question, "August" and "January" (see Paper *p*[1]). *Mr. Bridgman* says the Merchants' Paper (*n*) is confused. It relates to 1694. They desire they may bring a

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Paper with the dates put into it tomorrow. *Proposed* they be told that their answers as to the cruisers (Paper p^2) are defective, and they have not sufficiently explained their stations, nor how long they were at sea, where they have said "till further orders." That they be directed to give an account of every individual cruiser and convoy, what station employed in, how long continued on that station, and the time of their having been at any time in harbour; and, whatever ship they begin to give account of, they should give an entire account of her service before they speak of any other. Instead thereof, the following Order was made and read to them, Ordered that the Lords Commissioners of the Admiralty do set down in distinct columns the times all the cruisers and convoys of the Fleet were ordered to their several services, how long they remained upon them, for what cause they left them, and in what roads or harbours they remained the rest of the time, and upon what occasion; and do send the same to their Lordships with what convenient speed may be. And this account to be given from 1st Sept. 1694 to 1st Oct. 1695. (Com. Book.) (*See* Paper *q.**).

On 13 Jan. Sir John Houblon and the Secretaries of the Admiralty are called in. *Sir John Houblon* delivers in a Paper (*q*) more exactly drawn (as to the dates) touching the Barbadoes merchants, &c., which is read. He desires the Paper No. 1 (Paper p^1), delivered into the House 27 Dec. last, may be given him back, this being the same, only amended in the dates. The Barbadoes merchants are called in. The above-mentioned Paper is read again. *Sir John Houblon* says, in '94 the *Tiger* came out with twenty-four merchant ships. Near Bermuda they met with a hurricane. Ten merchant ships were lost. The *Tiger* returned to Barbadoes to be repaired. In April the *Tiger* came out with twenty ships, and they came safe. Those that came without convoy, both while the *Tiger* was repairing and after she came away, were lost. When the convoys will be ready for them now? That should have been so 1st Jan. When they desired a longer time, we were forced to take off one of their convoys for the King's service. One that is to go with them in its place will be ready in two or three days. There is nothing wanting but a few men, which order is given for. (This is for the Virginia merchants.) The convoy was ready according to the Order of the Council on 1st Dec.; but, they desiring not to go till 1st Jan., we disposed the convoy, because it should not be unemployed. The *Woolwich* (that is to go Commandour (*sic*)) is now at Long Reach. But she is to go with the Virginia merchants. The Admiralty are directed to give positive answers tomorrow morning when the convoy will be ready to go with the Barbadoes Fleet, which Sir John Houblon undertakes to do. *Mr. Perry* says, If they have not cruisers in the Soundings as well as convoys, they shall be still in danger of losing our heavy ships. He reads a letter of 10 Feb. 1694–5, from Plymouth, that there were then but two cruisers. When our ships were taken in August, there were four men of war in Plymouth, and none of them would go out. *Proposed* that the matter of cruisers be considered before this Committee finish all the business. (Com. Book.)—On 14 Jan. the Commissioners of the Admiralty are asked when the convoy to the Barbadoes Fleet will be ready. *Sir John Lowther*¶ says he believes it will be near the end of the month before it will be ready. *Mr. Perry* says all their ships have cleared Gravesend. *Sir Robt. Rich* says they

¶ A Memorandum by the Clerk states that L. Ferrers told Sir John Lowther that their Lordships did not admit of the Commissioners sitting down; but, by reason of his infirmity, if he sat behind, out of sight, there would be no notice taken of it.

have not yet brought the list of their ships to the Board, though required on Friday last. He says Mr. Perry and other merchants applied to the Council for a longer time than 1st Dec. *Mr. Priestman:* It would have been ill in us to have let the convoy lie by when ready. The East India ships now have that convoy. The cruisers are fitting at Plymouth. *Admiralty:* Except accidents, the convoy will be ready by the latter end of this month. *Question:* When will the Virginia convoy be ready? *Admiralty:* That convoy will be ready sooner than the other; or, at farthest, when the other is ready. The *Merchants* desire the convoy may be in the Downs. *Admiralty:* The convoy will be in the Downs, if one of the ships that is in Portsmouth can be ready soon enough to come. They are called in and told that the Committee have taken notice of their saying that the convoys will be ready for the Barbadoes and Virginia Fleet by the end of this month, and the House will take notice of it if they are not ready; but their Lordships hope they will take care to be accordingly ready. (Com. Book.)

On 15 Jan. the *Commissioners*, on the notes taken being read over to them, said, if the winds stand westerly three or four days longer, the convoys for the Barbadoes and Virginia ships will certainly be ready; but, if it do not, no other ships can be fitted by the end of the month, because ships to the West Indies must be both inwardly and outwardly fitted otherwise than ships to other places. The *Colchester* is in the river at Woolwich, the *Woolwich* in the Long Reach, the *Prince of Orange* in the Downs, and the *Prince George* at Portsmouth . . . . . The five ships for the convoys are the *Colchester* at Woolwich, for Barbadoes, with the *Virgin Prize* coming from the Downs to the Nore; the *Woolwich* is at Long Reach (for Virginia) with the *Prince of Orange* in the Downs, and the *Prince George* at Portsmouth. Another frigate, called the *Southampton*, is fitting at Portsmouth, in case the *Colchester* cannot get from Woolwich time enough. (Com. Book.)—On 22 Jan. the Commissioners of the Admiralty are sent for. The Committee's Order of the 6th Jan. is read. They say the Return is ready, and only wants signing (Com. Book).—On 23 Jan. a gentleman from the Admiralty delivers in the account of the cruisers required by Order of 6 Jan. He withdraws (*see* Paper q^*). The memorial (at Aug. 6th, fol. 16) read (*see* Paper p^3). Query (1) Why the ships were then dispersed? Query (2) Whether they had ships cruising 60 or 80 leagues from Cape Clear, and how many, and at what time? Query (3) Why no additional strength was sent into the Soundings? The Memorial of the East India Company of 6th Aug., as also that of 10 Sept., to be laid before the Committee by the Admiralty. That the House be moved that application be made to the King that the Petition of the East India Company of 12th Sept. to the Lords Justices, and the other Papers given by them to the said Lords Justices at any time in relation to their ships, may be laid before the House. Query (4) Why the Admiralty gave the East India Co. for answer that they could not send out the strength they desired? The Commissioners' memorial to Fol. 21 (Paper p^3, Sept. 12) is read. (Com. Book) (*see also* L. J., XV. 649).—On 27 Jan. the Admiralty Paper marked No. 3 (Paper p^3) at fol. 21, 12 Sept., is read. Query (5) How they came to fix a station to this squadron? (Com. Book.)—On 7 Feb. the Commissioners of the Admiralty are asked whether the convoys for the Virginia and Barbadoes Fleets are sailed, or in what forwardness they are. *Capt. Priestman:* I believe the Fleet is sailed to-day, if the wind be at north east. On the 5th inst. the Virginia convoy, viz.,

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the *Woolwich* and *Prince of Orange* were in the Downs, and the *Prince George* and *Hawk* fireship at Spithead, under orders for Plymouth. The Barbadoes convoy, viz., the *Colchester* is at the Nore and under orders for the Downs, and the *Virgin Prize* is in the Downs. But some of the merchants have not yet cleared Gravesend. The paragraph of 6 Aug. in the Paper marked No. 3 (Paper p^3) was read. *The Commissioners*, being asked why the ships were then dispersed, say The Cruisers Book will show why they were so, and where they went. There might be intelligence of the French being abroad and we not have it, nor believe it.* It must appear what time of day the intelligence came of the French squadron, and what time L. Kiveton's squadron was dispersed. We went to the Lords Justices, and got part of the ships for the Straits sent, as soon as we heard from the East India Company. They are asked *whether they had ships cruising* 60 *or* 80 *leagues from Cape Clear, and how many, and at what time?* They say, there were two ships ordered to cruise 60 leagues west of Cape Clear. Being asked *why no additional strength was sent into the Soundings?* Say, We sent all the ships we had within our command. We never had ships enough for trade and other services. There was a squadron going into the Straits then. All other ships that could be got together were sent into the Soundings. *Why did you give the East India Company for answer that you could not send out the strength they desired?* Because we had no more ships. We can give your Lordships a particular account where all the ships were, and under what Orders, on the 5th, 6th, and 7th Aug. *How came you to fix a station to this squadron?* When we have grounds to fix a station, we do it; but when we have not so, we leave it to the captains. We do, as often as we can, comply with the Merchants in the station proposed by them. *Ordered* that Sir John Lowther and Sir John Houblon be desired to be here on Monday, with the other Commissioners, and that they give a particular account where all the ships were, and under what Orders they were, on 5th, 6th and 7th Aug. (*See* Paper *s*). (Com. Book.)—On 10 Feb. *The Commissioners* say the account called for is preparing, and, as soon as ready, shall be brought. They desire they may have the questions asked them on the 7th in writing, that they may give answers in writing to them. They withdraw. They are called in again, and the five questions put to them on the 7th (viz., the four given above in italics, and why Capt. Cole was not tried, *see* Notes III. and IV. below, Pages 69 to 75), and their answers to them, are read. They desire they may have the other question, namely, "Why the ships were then dispersed?" with the others, and may answer them all in writing. They are told they shall be sent them. They withdraw, and the said several questions are read and agreed to be worded as follows, and sent to them to give answers to in writing with what convenient speed they can. The text of the questions is given in Paper (*r*) below. (Com. Book).—On 19 Feb. Mr. Cooling is directed to acquaint the Commissioners that the Committee will sit again on the 22nd, and they hope they will then be ready with the answers to the questions given them at the last meeting.—On 22 Feb. a gentleman from the Admiralty gives in the answers (Paper *r*). (Com. Book.)—After a further adjournment the matter dropped.

II. The "Avarilla" (Papers *t*).

On 13 Dec. *Mr. Bailey* was called to the Bar and asked concerning Capt. Doyley and Capt. Massam's pressing his men. He said it was

* *See also* Com. Book, 21 Jan.

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both the captains that pressed the men. He could prove it, so far as the nature of the case could bear. *Moved* to appoint a Committee to examine into this matter. *Ordered* that a copy of Mr. Bailey's Paper (Paper t^1) be sent to the Admiralty, as in L. J., XV., 611. (MS. Min.—On 17 Dec. the Admiralty's answer (Paper t^2) was read, and they were ordered to acquaint the House when Capt. Doyley, the Captain of the *Bristol*, returns, and whether Capt. Massam had been in England lately or when they expect him. (MS. Min. ; L. J., XV. 615.) The Admiralty's answer to this (Paper t^3) was received on 19 Dec.

III.—L. KIVETON and the ADMIRALTY (Papers p^3 and u to ab).

On 6 Jan. L. Kiveton,* acquainting their Lordships that he considers himself reflected on in the Paper marked (3) (Paper p^3), desires he may have time to put in an answer thereto in writing, which is accordingly ordered. (Com. Book.)—On 11 Jan. L. Kiveton gives in an answer in writing (Paper u^1) to the Admiralty Papers, a copy of his letters to the Admiralty (Paper u^2), and a copy of his journal (Paper u^3). The Paper of the Commissioners of the Admiralty marked (No. 3) is read to fol. 11 (Paper p^3, down to 20th July). *L. Kiveton* says Capt. Dilkes' name is omitted at the Council of War for going into Milford ; that the *Captain* ship, ordered him, was one of the line of battle ships under L. Berkeley. (Com. Book.)—On 13 Jan. L. Kiveton's answer (Paper u^1) is read. *Sir John Houblon* is called in and told that in it L. Kiveton denies the most material things in their Paper, and their Lordships intend to read it by paragraphs, that they may, if they please, speak to it, if they are ready. *Sir J. Houblon* desires a copy of it, and that the Admiralty may rejoin. He says he has not here my Lord's original letters. Their Paper was drawn up by the whole Board, and it is hard he alone should answer. Then Paper (p^3) begun to be read by paragraphs. The 1st paragraph is read. The 1st paragraph in L. Kiveton's answer (u^1) is read. *Sir John :* We intended constantly a squadron of six men of war and two fireships in the Soundings. These five were to relieve the others, two by two. The next paragraphs in both are read. *Sir John :* We ordered him two ships. The *Weymouth* was cruising. *L. Kiveton.* The *Dorsetshire* and *Weymouth* were not then cruising, as in their memorial. The *Weymouth* was cleaning 13 June, and came out of the dock 14 June. The *Dorsetshire* came into Spithead 13 June. The Admiralty's Order and letter of 25 May are read. By what orders the *Lenox* sailed from the Nore to Spithead ? *Sir John :* A day or two before L. Kiveton had Orders we had ordered her to Spithead. A postscript in the said letter of 25 May is read. *Ordered* that the Admiralty send copies of the Orders under which Captain Cole and Captain Hubert (Hubbard) cruised in the Soundings at the time L. Kiveton was to join them. *Sir J. Houblon* remembers not that after 25 May my lord ever came to the Board, or had leave to go to Chatham. If we may have a copy we can answer. *Mr. Bridgeman* says he cannot say my lord was not there, but knows not whether after 25 May. *Mr. Burchett* remembers my lord was there, but not that he had leave to go to Chatham. A copy of a letter of 17 June from L.

* The Marquess of Carmarthen, who sat in the House of Lords as Baron Osborne of Kiveton, was represented by the Admiralty (1) as having been slow to leave harbour to protect the merchant fleets ; (2) as having failed to find Capt. Cole's squadron, which he had been ordered to take the command of ; and (3) as having mistaken it finally for a French fleet, and run into Milford to escape it.

1695. — No. 959. Kiveton to the Admiralty is read (see Paper u^2, N° 2). The next paragraph (Paper u^1) of 20 June and answer to it were read. *Sir J. Houblon* says he thinks about the 2nd June they sent to seek my lord, and it was said he was not in town. It being very late, the Lords rise with intention to meet again when the House thinks fit. (Com. Book.)—On 14 Jan. Sir John Lowther gives in copies of the Orders relating to Capt. Cole and Capt. Hubbard's cruising in the Soundings (Paper *v*), which are read. The 1st and last of said Orders (of 22 April and 20 May) are read. *Proposed* to ask the Admiralty why they give Orders so at large that they know not how to come at their cruisers. Their Paper No. 3 (Paper p^3) is begun to be read. The 1st paragraph is read, as also L. Kiveton's answer to it. *Sir J. Lowther:* There was notice given to Capt. Cole and to my lord that the ships that were cruising were to be sent to him two and two at a time, and so the foul ones to be sent in. The next paragraph (Paper u^1, 25 May) is read. *Sir John* says he cannot answer to that long reply upon memory. On search of the Minute Books they find no leave nor permission to be given to my lord for his stay in town. They have examined their secretaries and clerks, and they remember nothing of it. *Question*, Whether my lord ever was at the Board after 25 May before he sailed? *Answer*, They have made enquiry and no one can remember his having been there. *Sir Robt. Rich* says he remembers my lord was once at the Board between his Orders and going on board, and spoke of his private occasions detaining him in town. The Board agreed my lord's goods should be on board the galley with the *Lenox*. That he needed not go on board till the *Lenox* was at Spithead. That the *Lenox* being come to Spithead, and hearing nothing of my lord, Mr. Burchett let his lordship know that the *Lenox* had orders to sail without him if he came not there by such a time. *L. Kiveton* says he believes he was with them eight, nine, or ten times. *Sir Robt. Rich* positively affirms that my lord was with them and knew of this matter before he had his Orders. He pressed us much before he had his Orders. *Sir John Lowther* says his method is, 'I pray put what you desire in writing, and you shall have the Board's Resolution.' Part of L. Kiveton's letter to the Admiralty, of 17 June '95, is read (*see* Paper u^2, N° 2). *Sir Robt. Rich* says he believes my lord was with them just about the time the *Lenox* was at Spithead. They then hearing my lord was in town and enquiring for him, he came afterwards to them; and, except that one time, he is positive he never saw my lord at the Board. *L. Kiveton* desires Major Stopford may be heard as to his having been at the Board after 4 June. *Mr. Bridgeman* remembers that Major Stopford was there with my lord, but he remembers not the time. They withdraw. *L. Kiveton* desires Major Stopford and Lieut. Charles Christian may be sworn, and that Billop may have the protection of the House. *Ordered*, That the House be moved that such witnesses as my Lord Kiveton shall produce may have the protection of the House in going and coming. That the House be also moved that a Message be sent to the Commons that my Lord Cutts may have leave to come to be examined. (Com. Book.)—On 15 Jan. *Major Joseph Stopford* (sworn at the Bar), being asked whether he was with L. Kiveton at the Admiralty, and about what time, says he believes he was, about 3 June. He believes so, because he has my lord's Order, under his hand, which was signed 4 June. To the best of his remembrance it was between 12 and 1 o'clock. He received this Order the day after he had been with L. Kiveton at the Board, which was the 4th June; and he

believes it was on Monday. He withdraws. *Charles Christian* (sworn), being asked whether he remembers L. Kiveton's going to the Admiralty, says he saw him the 4th June (Tuesday night) come out of the Admiralty, out of the little room where the Board sits. He was in the next room to it when he saw my lord come out. *Sir Robt. Rich* says that room is kept private. None come there but whom we send for in. *Mr. Christian* says my lord Kiveton sent for him in there. He thinks it was between 8 and 9 o'clock at night. He says he was also with my lord there the 28th May. He withdraws. *L. Kiveton*, being asked by the Commissioners of the Admiralty, says this man was accused and condemned at a Court Martial for b*****y, and pardoned by the King. *Capt. Christopher Billop* (sworn), being asked whether he ever saw L. Kiveton at the Admiralty between 25 May and 14 June, says, after my lord told him he had an Order to go into the Soundings, he waited on my lord to the Admiralty about 28 or 29 May ; and afterwards, about 4 or 5 June, he saw my lord go into the outer room where the Commissioners sat. He told me, after he came out the first time, the Admiralty would not believe M. Nesmond to be out with so many ships. The latter time, he told me the Commissioners had given him hopes of an additional strength to his squadron. He withdraws. *The Commissioners* say this witness stands indicted for forgery and subornation of perjury. He has forfeited one or two recognizances. One is levied, and the other, they think, levying ; but had sent to the solicitor for fuller information. In the margin is a memorandum that on 24th Jan. the Clerk was directed, in the notes he is to transcribe for the lord in the chair, not to mention any part of Billop's evidence, there being no need thereof. *L. Cutts*, another of L. Kiveton's witnesses, being not yet sworn, their Lordships rise to go into the House in order to swear him, and to return to receive his deposition. *John, L. Cutts*, being sworn (see MS. Min.), the Committee sit again. His Lordship, being called in and asked whether he saw L. Kiveton at the Admiralty in May last, says that he went on board for Flanders on 30 May. That a few days before (but whether one, two, or three days he remembers not) he saw him at the Admiralty in the antechamber. I asked him for his galley, and he said he was going to sea himself. Thinks L. Kiveton said he was there to solicit to get more ships. He withdraws. *Sir Robert Rich* says without doubt L. Kiveton did press for more strength, and said the squadron was too weak ; but it never appeared to the Board it was so . . . . *L. Kiveton* proposes the Commissioners be asked whether he ever had orders to go to Spithead. *The Commissioners* say sometimes exceptions are taken to our Orders being too general, sometimes too particular. *Sir Robt. Rich* takes notice that L. Kiveton yesterday said he believed that the Order he gave Major Stopford was given him the day before he brought the said Major Stopford to the Admiralty, but the Major himself says he believes it was the day after. *The Commissioners* are asked why they give Orders so at large that they know not how to come at their cruisers. *Mr. Priestman :* The Order will answer for itself if read. The first part of the Orders of 22 April and 20 May (Paper *r*) is read. They say there is no better way of finding cruisers than the Order sets forth. The postscript of their letter to L. Kiveton is read. The Order is to find out such and such trades, and every seaman knows which way such trades come. Sometimes we have been blamed for giving too loose Orders, sometimes for their being too particular. The Commander-in-Chief always, the first port he comes to, acquaints the Board what station he

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has taken, and where he may be found. If L. Kiveton had been on board the 2nd June, there had been no neglect in his Lordship; but the service suffered by his not being on board when the *Lenox* came to Spithead the 2nd June. And we put no stress on what happened before. *L. Kiveton* says he went on board the *Lenox* on 14 June, at which time he wrote a letter to the Admiralty Board from on board the said *Lenox*. *The Commissioners* say they have no more to say on this matter, but leave it before their Lordships. . . . . L. Kiveton's answer (Paper u^1) to 17 June is read. *Sir Robt. Rich* gives in a copy of Mr. Burchett's letter of 10 June '95 to L. Kiveton (Paper *w*), which was read. He says, There is nothing in my Lord's answer where he was between the 2nd and 14th June. *L. Kiveton:* I have proved by my witnesses where I was the 4th June. *Commissioners:* Where was his Lordship the other ten days? *L. Kiveton* says he was often with them. He received the positive Order of 10 June at Wimbledon the 11th, as he was going down to his ship, and proceeded on the 12th, and hoisted his flag on the 14th in the morning, and sailed that night; and wrote to the Commissioners when he was unmooring. *L. Berkeley*, being asked, says at 11 that night his Lordship called on him, and the *Lenox* was then at St. Helens. *L. Kiveton* complains of his being sent in a single ship. *The Commissioners* say there are instances of Flags sent in single ships—Mr. Russell once, Monsieur Almond last summer. We weakened not the squadron for my lord. The King commanded a squadron to be sent, and we could not, at that time, send a stronger squadron. My lord was the proper person to send, and we believe he would have taken it ill if another had been sent. The solicitor mentioned by the Admiralty being here, the Commissioners desire he may be heard as to the trial of Capt. Billop. The service stands still while we are here. We accuse not my lord, but we justify ourselves. We could not have defended ourselves without saying what we have said concerning my lord. The service suffers infinitely by our being here. We are pressed every day in the year with business at the office; but we will attend when your Lordships command. They are desired to be here again on Saturday. (Com. Book.)—On Tuesday 21 Jan. the Commissioners are enquired for at the door, but, not being there, the Yeoman Usher is sent for them to the Admiralty Office; who being come, *L. Kiveton* desires [that the paragraph of] the Paper marked N° 3 (Paper p^3) from the Admiralty, of 26 July,* may be read, which was accordingly done. *Sir Robt. Rich:* L. Kiveton gave us account of his coming into Milford, and by a Council of War, and in the sight of our own ships, which he took to be French ships. L. Kiveton's letter of 23 July and the Council of War are read (see Paper u^2, Nos. 15 & 16). *Sir Robt. Rich:* We mentioned not these advices because we had no such advices, nor believed anything of them.† *L. Kiveton:* The reason of my calling the Council of War is omitted in the Paper given in by the Commissioners (Paper p^3). *Mr. Priestman:* If we have not put in all the Orders and letters, we have them here. *L. Kiveton*, being asked by the Commissioners, says, We were off the Land's End about 4 miles, and about 6 leagues from Falmouth, when we saw the ships, which we thought to be 5 leagues off, and a hazy day. *The Commissioners* remember not whether they had intelligence of any squadron of French men of war being out. L. Kiveton's letter of 24 July is read (see Paper u^2 No. 17). *Commissioners:* We took the Cails

* As to L. Kiveton's taking refuge in Milford.

† See also Com. Book 7 Feb., and Notes I above, page 68.

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[Cadiz] trade to be safe without my lord, but much more so when he was with them. He was ordered to protect the trade that was not protected, and not the trade that was protected. *L. Kiveton:* I had no such instruction. *Commissioners*: It was but eight days from your going from Plymouth to Kinsale. Part of the Admiralty's Paper and my lord's answer is read (Papers p^3, u^1). L. Kiveton's letter of 20 July to L. Capel is read (see Paper u^2 N° 14). *L. Kiveton* says no Order came to him in time to take care of the East Indiamen particularly, the said Order not coming to him till he was at Plymouth, as he thinks. *Mr. Priestman:* There were Orders to take care of the East Indiamen. The Order of 2 Aug. '95 is read, as also L. Kiveton's letter of 7 Aug. (*see* Papers p^3, u^2, N° 20). The Order of 5 Aug. is read (Paper x). *Mr. Priestman:* [Because you complained of being sent out with too few ships, when you had more than were with you when you were sent for home]* we [?you] said there were too few to accompany a Flag. There were more ships with you, and to meet you, when you complained of being sent out with so few, than when you were called home. (Com. Book.)—On 22 Jan. the Order of the Admiralty to L. Kiveton of 5 Aug. is read (Paper x). My lord's answer of 5 [should be 8] Aug. (Paper u^2, N° 21), is read. *Commissioners:* The beginning of the Order says the ships should be separated. They were not to be together. *Question*, Whether there was the like direction from the Lord Justices for the second Order as for the first, that is, for the Order of 5 Aug. as for that of 2 Aug.? *Sir Robt. Rich:* If we are accused of a crime, I hope we shall have time to answer and not speak off hand. *Mr. Priestman:* We laid L. Kiveton's letter before the Lords Justices, and they left it to us to relieve L. Kiveton, as we thought fit, and the Board met and did think fit to relieve him. *L. Kiveton:* I sailed the 8th of August from Milford by Order of 5 Aug. I received it on the 8th, in the morning. His Lordship received the Order of 2nd on the 6th, and weighed often, and was getting ready when the Order of 5th came. There were three ships and a fireship with L. Kiveton in Milford.—The Order of 12 July '95, for calling Capt. Cole to a Court Martial, was read (Paper y). *Question*, Whether he has ever since been before a Court Martial?† *Commissioners:* Your Lordship will find by the cruising book how far Capt. Cole and the *Portland* have been within our reach since. *L. Kiveton* gives an account of Capt. Cole's disobedience to him, and abusing his Lordship. L. Kiveton's letter of 8 Aug. is read (see Paper u^2, N° 21). The last paragraph of L. Kiveton's answer (Paper u^1) is read. *Question*, Why the L. Kiveton was not tried at a Court Martial, as he desired? *Mr. Priestman:* I believe, if my lord had any answer at all, it was that they were not willing to give an answer till the King had been acquainted with it. *Sir R. Rich:* I know not that any Flag has been tried without the King's privity or command; but we have laid it where we ought to do. (Com. Book).—On 23 Jan. a letter from Mr. Burchett to L. Kiveton of 18 July 1695 is read (Paper *aa*), and the Clerk is directed to make a copy of the notes he has taken for the lord in the chair, to the end matters of fact may be reported. (Com. Book.)—On 24 Jan. it was ordered that the Clerk put not in his notes the evidence given by Christopher Billop the 15th inst., there being no need thereof. (Com. Book.)—On 1st Feb. the Select Committee read the notes taken relating to L. Kiveton (Paper *ab*), and ordered that the lord in

* These words are scored through.

† See also Com. Book 7 Feb., and Notes IV. below, pages 74, 75).

1695. — No. 959. the chair acquaint the House that he is ready to make report of what relates to L. Kiveton in the memorial given in by the Commissioners of the Admiralty, when the House thinks fit to receive it. In other matters their Lordships are not yet ready. (Com. Book.) See also L. J. XV. 657.—On 6 Feb. L. Ferrers reported to the House the notes taken by the Committee so far as they related to L. Kiveton (Paper *ab*), and, the latter having been heard in his place, it was *moved* to enter on the Books That the Lord Kiveton hath behaved himself in the last summer's expedition at sea with courage, conduct, and fidelity. Agreed to. (MS. Min.; L. J., XV. 662.)

IV. L. Kiveton and Capt. Cole.*

(Papers *r* (Question 6), u^2 (Nos. 22, 23), u^3, *y*, *z*, and *ac* to *af*.)

On 27 Jan. the Admiralty Paper marked N° 3 (Paper p^3) at fol. 21, 12 Sept., is read. That a time be appointed to examine the matter concerning Capt. Cole. That the Yeoman Usher intimate to the Commissioners of the Admiralty that he believes some day this week there will be occasion for their attendance on the Lords' Committee, and also for Capt. Cole's and Capt. Hobson's attendance at the same time. That some of the East India Company attend at the same time when the Commissioners and Capt. Cole attend. (Com. Book.)—On 1 Feb. Mr. Cooling acquaints the Committee that the Admiralty have sent for Capt. Hobson and Capt. Cole, and that the former is in town, and the latter is not well but hopes to be here in a day or two. Ordered that, if Capt. Cole can be ready to attend next Thursday, the Commissioners do then attend with him and Mr. Hobson. (Com. Book.)—On 6 Feb. L. Kiveton's letter of 12 Aug. to the Admiralty is read (see Paper u^2, N° 22). The Commissioners' letter of 14 Aug., in answer thereto, is read (Paper *ac*). Part of L. Kiveton's letter of 17 Aug. to the Commissioners is read (see Paper u^2, N° 23). Ordered that the Commissioners of the Admiralty be desired to be here to-morrow, and that Capt. Hobson and Capt. Cole do then attend. (Com. Book.)—On 7 Feb. L. Kiveton's letter of 12 Aug. is read, relating to Capt. Cole (*see* Paper u^2, N° 22), as also the Admiralty's answer to it of 14 Aug. (Paper *ac*). *The Commissioners* are asked why Capt. Cole was not tried ?† They answer, My lord restored him to his command himself. My lord was best judge of his complaint, and had it in his power to try him. Mr. Smith's Journal (Paper *z*) is here, and gives account of the other complaint. He is since unfortunately drowned at Plymouth. Part of L. Kiveton's letter of 17 Aug. to the Admiralty is read (*see* Paper u^2, N° 23). *Mr. Priestman:* I never had any extraordinary opinion of Capt. Cole, though others have an esteem for him. I believe he was not tried because my lord put him in his ship again. The letters from Cole to the Board, I believe, were the reason he was not tried. The letters are here. He was sent to fetch the mast ship because he was the first ship that was in the way. Otherwise, he had not been sent. Capt. Cole is called in. The Commissioners give in an extract of Mr. Smith's Journal (Paper *z*), which is read by paragraphs. *Cole:* When Smith was chasing a small ship, the *Lichfield* at the same time was chasing another ship, and, we being a small squadron, and I

* See also Notes III. above, 22 Jan., page 73.

† See also Com. Book, 22 Jan., Notes III. above, page 73, and Paper *r*, (Question 6).

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not perceiving he gained any ground, towards night I called him baek. L. Kiveton's letter of 12 Aug. to the Admiralty is read again. *Cole:* I have disobeyed no order. My lord abused me in language, pinching, and blows, so that I was not out of my eabin for some time. He kept me a prisoner on board of a hired ship four days. I continued off the Land's End 48 hours to meet the *Rupert*, who was gone off with some gentlewomen to Bristol. I had no orders to eontradiet my going to Mount's Bay. I left not my lord till two in the morning. I saw no ships, and I went thither to give the Admiralty aecount that I was left without ships. I own I reeeived an Order not to leave my lord without signal. My lord altered the signal to be two lights; but I saw none when I went away. The witnesses I had sworn were to prove my lord's abusing me, and turning me out of my ship, and sending me aboard an hired ship. He withdraws. The Admiralty being desired to bring Cole to a Court Martial, Sir Robt. Rich gave in a letter from Capt. Cole to the Admiralty, dated 11 Aug. '95, whieh is read and given baek (Paper *ad*). Capt. Cole's letter to L. Kiveton of 6 Aug. '95 is read (? Paper *ae*). *Sir Robt. Rich:* We desire all that are within reaeh may be examined in this matter. Though Sir John Lowther do not now act, yet he was then at the Board. Sir George Rooke was also present. I believe other reasons will be given why he was not tried. There are mutual aeeusations of the Flag and the Captain. If you will have Cole tried out of hand, nothing in us shall hinder it. They withdraw. Ordered to report that it is the opinion of the Committee that Captain Cole be forthwith tried by a Court Martial (Com. Book.). The same day L. Ferrers made the above report to the House, which agreed to it. (MS. Min. No entry in L.J.) An entry in MS. Min. of the appointment of a Committee to draw up an address to the King for Cole's trial appears as eancelled.

The Papers are as follows :—

(*a*) to (i) 10 Dec.—Papers delivered this day (L.J. XV., 608) at the Bar, in obedience to Order of 6 Dec. (*ib.*, 606), by various trading Companies, stating their losses. Read this day, and ordered to be amended (*ib.*, 609, and MS. Min. Note I. above, page 64.) They are as follows :—

(*a*) 10 Dec.—East India Company's Paper, handed in by Sir Benjamin Bathurst. They lost last year the following ships :—

	Tons.	Men.	Guns.
Princess of Denmark - - the Bay of Bengal.	670	133	40 laden from
Seymour - - - - .the same plaee.	500	—	— laden from

Taken by the French 150 leagues west of Seilly, in August last, and earried into Brest.

	Tons.	Men.	Guns.
Success - - - - the Bay of Bengal.	400	80	32 laden from
Defence - - - - Surat.	750	150	50 laden from
Resolution - - - - Surat.	650	130	40 laden from

Taken by the Freneh 20 leagues off the coast of Ireland, in September last, and carried into Port Lewis.

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Henry - - - - - - 350 tons laden from Surat. Forced ashore by the French, and stranded in Ventry Bay in Ireland, about July last.

The cargoes of the Company's said ships, with their share in the ships *Seymour* and *Henry*, would have sold here for at least fifteen hundred thousand pounds sterling. *Dated* East India House, London, the 9th December 1695, and *signed*, by order of the Governor and Company, 'Ro. : Blackborne, Sec^y.'

(*b*) 10 Dec.—Barbadoes Merchants' Paper. Account of part of their losses to and from Barbadoes, since the first September 1694 to the first September 1695, from and to the port of London, being value 387,100*l.* sterling.

1	The *Content* Capt. [Samuel] Snipe - - - - -	hhd^s. 764
2	*Plymouth* Ja. Gould - -	
3	*Merchant Adventurer*, Thomas Simpson - - - -	
4	*Barbadoes Merchant*, Thomas Flint - - - - -	
5	*Soldadoe*, Richard Griffin -	
6	*Phœnix*, Capt. Page - -	
7	*Victory*, Capt. Earle - -	
8	*John*, Capt. Wilde - -	
9	*Experiment*, Capt. Follett -	
10	*Two Bro[thers]*, Capt. Penniston - - - - -	
11	*Dolphin*, John Sanders - -	
12	*W[illia]m & Mary* Capt. Eldred - - - - -	700 & gold.
13	*Joseph*, Capt. Emberly - -	400
14	*Hopewell*, Capt. Dickeny -	500
15	*James & Robert*, Bell Ross -	600
16	*Bilboa Factor*, Capt. Godfrey	300
20	*Adventure*, Robert Williams -	350
17	*Prosperity*, Capt. Browne -	300
18	*Shield*, Capt. Howell - -	400
19	*Sarah*, Capt. Corbin - -	400
21	*Deborah & Martha*, Capt. Martyn - - - - -	400
22	*Reformation*, Capt. Sanders -	250
23	*New Industry*, Capt. Strutt -	650
24	*Providence*, Capt. Saywell -	110
25	*Hannah*, Capt. Morris - -	300
26	*Avarilla*, Capt. Robinson -	400 & gold.
27	*Providence*, Capt. Johnson -	160
28	*Isaac*, Capt. Tucker - -	120
29	*Swallow*, Capt. Grainge -	300
30	*Joan*, Capt. Childpoole [or Davis in Paper *n*] - -	120
31	*Friends' Adventure*, Capt. Deering - - - -	400
32	*Castor*, Capt. Wheeler - -	200
33	*Robert*, Capt. Meeres - -	100
34	*William*, Capt. Smith - -	400
35	*Bilboa Factor*, Capt. Johnson -	400

36 *Bordeaux Merchant*, J. Philpott	400		
37 *Biscay Merchant*, Jonathan Francis	400		
	9,824 at 25*l.*	℔ hhd.	£. 245,600
	£.		
38 *John & William*, Capt. Shanks	3,500		
39 *Diligence*, Capt. Baynham	5,000		
40 *Three Brothers*, Daniel Hodson	3,000		
			11,500
Gold, Ginger, and Cotton, valued			56,000
Thirty-seven ships at 2,000*l.* each			74,000
			£.387,100

The whole loss is three hundred and eighty-seven thousand and one hundred pounds. *Dated* London, Dec. 9, 1695. [*See also* (*n*).]

(*b*)[1] 10 Dec.—Memorial by Barbadoes Merchants accompanying preceding paper. It is as follows :—

May it please this Honourable House.

In obedience to your Lordships' Order, we the Barbadoes Traders have brought up a list of losses since September 1694 to September 1695, which amount to the value of 387,100*l.* sterling, and about 200,000*l.* of which was taken by the French in or near the Soundings, which is a double loss to the nation ; and the other 187,100*l.* was cast away, and about 350 men lost, by the unseasonable time of the year, which was occasioned by the detaining our ships here five months after the time prefixed, and so forced to be winter ships, which was the loss of them. We have several times applied ourselves to the Admiralty for relief ; sometimes we had some, and other times [it] was answered they had no ships, which made several sit down with these heavy burdens on their shoulders, and some have sunk under, not being able to bear them. And we most humbly pray that your honours will take our miseries and losses into consideration, and give us some better prospect of security for the future, that we may have some encouragement to adventure our little estates, which are left once more abroad, in hopes of better success. The losses from the plantations are double to the nation, being all goods that would have been exported to have supplied the army with the proceeds, and kept up the exchange, which is still an addition to our loss ; for, if we have not effects to pay our army, the foreigners will have our silver to be sure, for exchange is governed by the balance of trade, which we beg your Lordships' care of.

(*c*) 10 Dec.—New England Merchants' Paper. Identical with their amended Paper (*l*), except that it wants time and place of capture, and the last paragraph.

(*d*) 10 Dec.—Levant Merchants' Paper. They have had two fleets, with convoys, to and from Turkey, besides some single ships, which, by God's blessing and the great care of the Admiral, are all safely arrived in England, with a very con-

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siderable estate. They have sustained no loss in their trade at sea this year, exeept a small vessel of about forty tons called the *Serpent* Ketch, which was surprised by the French in a port of Cyprus. And they do further pray your Lordships to aeeept their most humble acknowledgment of your Lordships' great eare of the trade of this Company, and of the nation in general. *Signed* Gab. Roberts, dep^{t}. Go^{v}., and *dated* London, the 10th December 1695.

(*e*) 10 Dec. Mr. Gardner's Paper. Losses sustained last year by John Gardner, of London, merchant, in ships taken by the French, viz^{t}., his particular coneern in the said ships :—

	£
The *Friendship*, Capt. Tippits, from Barbadoes -	5,500
The *John*, Capt. Harman, from Guinea - -	2,500
The *America Merchant*, Capt. Sunderland, from Barbadoes - - - - - - - -	3,000
The *Bridgwater*, Capt. Haughton, from Nevis -	800
The *Adventure*, Capt. Williams, from Barbadoes	1,000
The *Appletree*, Capt. Sare, to Barbadoes -	500
Sum Total - -	£ 13,300

Whieh said losses, with what others have befallen the traders, the said Gardner takes to have happened through a wrong method in carrying on and securing the trade ; and the said Gardner hopes he is able to propose such a method as may, for the future, greatly enlarge and secure the trade, wherein he is ready to do as their Lordships shall order. *Signed* John Gardner.

(*f*) 10 Dee. Pennsylvania Merchants' Paper. Account of part of their losses from Pennsylvania and New York, from 1st September 1694 to 1st September 1695:—

	£
The *Pennsylvania Merchant*, Samuel Harrison, taken on the coast of Seotland and coming north about, laden with furs, skins, peltry, and tobacco ; ship and eargo value - -	4,300
The *Friends' Adventure*, Thomas Lueas, from New York, taken the 8 July last near Cape Clear, laden with oil, whalebone, logwood, furs ; ship and cargo value - - - -	3,800
The *Industry*, John Thomas, from Pennsylvania, was taken the 2 August, off Portland and Isle of Wight, laden with oil, whalebone, logwood, and furs ; valne - - - -	3,700
	£ 11,800

Dated London, 9 Dec. 1695.

(*g*) 10 Dee.—Leeward Islands Merchants' Paper. Identical with (*o*), save that it is without the dates and plaees of eapture and the note at the end.

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(*h*) 10 Dec.—Jamaica Merchants' Paper. An account of ships lost to and from Jamaica this year, 1695, with a modest computation of their value :—

	£
The *Don Carlos*, John Lord master, a Bristol from Jamaica	4,000
The *Phœnix*, Edward Ireland	3,500
The , Phelps master	2,000
The *Susanna*	2,000
The *Phœnix*, Vivian master, a	10,000
The *King William*, yacht, Samuel Anthony, from Jamaica	5,000
The *Mary*, Daniel Nedham	12,000
The *Robert and William*, Edward Moore	8,000
The *Neptune*, Toddy	6,000
The *Mermaid*, John Taylor	8,000
The , Griffith Lawrence	8,000
Two Bristol ships more, outward bound	—
	£ 68,500

and they have had twelve ships arrive.

Also three men of war and two fire-ships are lately come from Jamaica, and did not take one merchant ship under their convoy, but left a fleet of ten or twelve ships to be convoyed only by the *Ruby* man of war, that fleet being worth, at least, two hundred and fifty thousand pounds sterling, and those men of war and fire-ships stayed one whole month in Virginia (after their departure from Jamaica), by which time most, if not all, the merchant ships in Jamaica would have been laden and despatched, if notice had been given that they would have stayed so long for them.

(*i*) 10 Dec.—African Company's Paper, as follows :—

Anno 1689—

Losses since the War.	Valued at Prime Cost, as per Invoice.					
	£	*s.*	*d.*	£	*s.*	*d.*
Taken by the French on the north parts of Guinea, ships and cargoes	8,620	4	2			
In the *Hare*, in Guinea	500	0	0			
In the *Alexander*	961	1	0			
In the *Maryland*, a	117	10	0			
In the *North Sound*, Nevis	265	7	0			
In the *Unity*, at Sierra Leone and Sherbro	2,809	15	11			
In the *Loyal Factor*	476	6	5			
In the *Happy Conclusion*	455	19	3			
In the *Friends' Adventure*	628	17	5			
In the *William and John*	1,594	3	0			
				16,428	17	9 (*sic*)

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Losses since the War.		Valued at Prime Cost, as per Invoice. £ s. d.	£ s. d.
Anno 1690—			
In the *Two Friends*, a Barbadoes		528 14 0	
In the *Seaflower*, a Jamaica		1,225 16 4	
In the *Blossom*, a Jamaica		350 0 0	
In the *Swan*, a Montserrat		312 0 0	
			2,416 10 4
Anno 1691—			
In the *Berkeley Castle*, and goods in her, a Barbadoes		1,844 19 9	
In the *Guinea* frigate, and her cargo		9,359 17 0	
In the *Ann and Mary*		1,662 7 7	
In the *Lisbon Merchant*		1,777 9 0	
In the *Elizabeth*		242 17 9	
In the *Insiquin*		180 10 0	
			15,068 1 1
Anno 1692—			
In the *Scipio*, Barbadoes		312 5 6	
In the *Advice*, Barbadoes		3,966 2 5	
In the *3 Brothers*, Barbadoes		865 15 11	
In the *Loyal Steed*, Barbadoes		2,720 5 0	
In the *Caesar*		2,276 14 2	
In the *Benjamin*, Jamaica		583 2 2	
In the *Mediterranean*, Jamaica		227 16 0	
In the *James*, Jamaica		997 2 5	
In the *3 Brothers*, a Antigua		527 7 3	
			12,476 10 10
Anno 1693—			
Carolina, a Jamaica		1,195 0 0	
In the *Richard and James*, Antigua		228 10 0	
In the *Blossom*, Antigua		241 5 0	
In the *Vintage*, Antigua		382 0 0	
In the *Diamond* and in Capt. Dolberry, 325NK of gold		10,230 0 0	
In the *Antelope*		740 0 0	
In the *Ann*, Capt. Thomas Leech, in the north parts of Guinea :—			
tons.	£ s. d.		
32 of Gum	2,264 10 0		
45 of Teeth	9,000 0 0		
25 of Wax	2,500 0 0		
125 of Wood	7,500 0 0		
and in gold, &c.	2,000 0 0		
		23,264 10 0	
			36,281 5 0

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	Losses since the War.		Valued at Prime Cost, as per Invoice.					
			£	s.	d.	£	s.	d.
In the	The *Tiger* - - -		2,532	4	1			
	Bridgetown	Jamaica	658	15	9			
	China Merchant -	Jamaica	2,656	16	11			
	Henry and William -	Jamaica	1,104	1	0			
	African -	Jamaica	4,000	0	0			
	Eagle ship, and goods in her - - -		1,366	13	2			
	William -	Barbadoes	677	18	5			
	Biscay Merchant	Barbadoes	455	1	5			
	Prosperous	Barbadoes	184	10	1			
	Bilboa Factor	Barbadoes	453	18	10			
	William and Mary -	Barbadoes	650	8	0			
	Hopewell	Barbadoes	737	19	8			
	Shield - - -		1,190	11	9			
	3 Brothers, Montserrat -		377	2	0			
	Agreement, Antigua -		568	10	3			
						17,719	11	4 (*sic*)
	The French descent at Jamaica - -					20,000	0	0
	The re-taking Senegal and Goree - -					20,000	0	0
	1695. This year, by a separate paper -					29,500	0	0
						£ 169,890	16	4

Signed, by order of the African Company, Warwick Yard, accountant.

(*i*)[1] 10 Dec.—African Company's second Paper supplementing preceding Paper, viz. :—An account of the losses they have sustained this present year, 1695.

	£
Lost, in the ship *Three Brothers*, Capt. Hudson commander, which was taken on the coast of Guinea by a French man of war, the captain being killed in fight - - - - - - -	3,000
Lost, in the ship *Return*, Capt. Reeves commander, on the coast of Guinea, by a French man of war	4,000
Lost, in the *Avarilla*, Capt. Robinson commander, after a stout resistance, in the chops of the Channel, by a French privateer. The occasion of the loss of this ship was that great part of her men were pressed out of her at Barbadoes, from whence she was returning to England - - - - - -	7,000
Lost, in the *Guinea* Galley, a ship belonging to the Company, from Guinea, taken by a French privateer near the Land's End - - - -	1,650

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		£
Lost, in the several ships called— *Deborah and Martha*, *Reformation*, *Providence*, *Jane* } from Barbadoes		
Lost, in the *Eagle*, from Antigua } All taken by the French near the coast of England		4,000
There are several ships also this last summer taken by the French and carried into France, coming from the Plantations, of which we have yet no invoices nor exact account. But, as near as we can compute the same, our loss in the said ships amounts to the sum of - - - - -		10,000
		£. 29,650

Signed, by order of the African Co., Warwick Yard, accountant.

[Enclosed in preceding, and referred to therein as "a separate Paper." The dates ordered to be added. (MS. Min.) See also (*m*)].

(*k*) to (*o*) 13 Dec.—Papers delivered in this day (MS. Min. : No entry in L.J.), in pursuance of Order of 10th Dec. (L.J. XV. 609), by the same trading Companies, in explanation of their Papers of 10 Dec. (*See* L.J., XV. 613, Com. Book and Notes I. above, page 65). They are as follows :—

(*k*) 13 Dec.—East India Company's Paper. On the 13th of June last they made an address to the Admiralty setting forth that, being in expectation of five of their ships therein named to return from India, they humbly desired that some of his Majesty's frigates might be appointed to cruise to the westward of Cape Clear, from the 10th July to the 10th of September following, or until they met with them, for the safety of the said ships, and to see them brought into the Downs, and that none of the men might be impressed out of the said ships till their arrival in the river Thames ; which address being presented to their Lordships by some of the Committees, they were told that their Lordships would do what they could, and hoped to have a 3rd and 4th rate ship off Cape Clear, and others in the Soundings. On the 17th of July following, they, understanding that 6 of his Majesty's ships, that were to join the Marquess of Carmarthen's squadron and to ply in the Soundings and off Cape Clear, were then come into Plymouth, whereby the Company's ships, then daily expected, might be exposed to the danger of the enemy, a committee thereupon was appointed to attend the Lords of the Admiralty to move them that the said 6 ships might be ordered to return to their stations, and to ply off Cape Clear for the safeguard of the Company's expected shipping, which application was made accordingly, but what was done thereupon the Company know not. On 6th August following they, having received advice that Monsieur De Nesmond was ready to sail from Brest with 6 men of war and two fire-ships, with a design to intercept the English and Dutch East India ships homeward bound, represented the same to the Admiralty, praying that a further strength might be added to the men of war already appointed to cruise abroad to look out for their returning ships, which were suddenly expected home,

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in whose safety and welfare not only the Company, but the public, was much concerned, and that the Company had reason to believe the goods laden on the said expected ships would, on their arrival here, yield his Majesty above 150,000*l.* Custom. Whereunto their Lordships returned answer that they could send out no more ships, there being eight in the Soundings and one or two off Cape Clear. On the 3rd of September a Committee of the said Company was appointed to attend the Lords of the Admiralty, and to pray that some men of war might be in the Soundings, and to acquaint their Lordships that the Company had been informed by Captain Clarke, of their ship *Hawk*, that he had fought with and escaped from 2 French privateers in the Soundings, but had met with no men of war till he came off Portland; which was done accordingly. On the 10th of September aforesaid, having had the sad intelligence that Count Nesmond had intercepted to the westward of Scilly the ships *Princess Anne* [Princess of Denmark in Paper (*a*)] and *Seymour*, valued by the French at ten millions of livres, and having advice that the said Count Nesmond, with a stronger squadron, was again going from Brest, with a design to waylay their other ships, they did represent the same unto the Lords of the Admiralty, praying that a sufficient strength might be appointed to look out for protecting the said returning ships, which, if they should miss of Nesmond's squadron, yet would be in great danger of the many privateers then abroad, one of which forced the *Henry*, an East India ship, on shore near Dingle Bay in Ireland, where she was lost; and, had it not been for the great resistance the *Hawk* (one of the Company's ships then lately arrived) had made in fighting with 2 French privateers in the Soundings, she also had been taken. Unto which said address the Lords of the Admiralty replied that they could not send out any ships to look out after Count Nesmond, but were ready, as much as in them lay, to assist the Company. Whereupon the Governor and Company presented an humble petition to the then Lords Justices of England, therein reciting the addresses they had made to the Lords of the Admiralty and the answers received thereupon, and praying their Excellencies for a sufficient squadron of ships for their said expected shipping, who were pleased to refer them to the Lords of the Admiralty to give them such assistance, by ships to the westward, as possibly they could; and, upon the desire of the Lords of the Admiralty, the Committee gave in a paper in writing of the stations most proper for the frigates to lie in for securing the Company's expected shipping, being about the place where they heard the two first were taken. On the 14th September the Duke of Shrewsbury acquainted the Governor, Sir John Fleet, that the Lords Justices had ordered out a squadron of men of war to go as far as Ushant, to look out for the Company's expected ships and after Count Nesmond. The 25th September the Company again addressed the Lords of the Admiralty, representing the loss of the 2 ships, and their expecting 3 or 4 other ships suddenly from India, and fearing they should fall into the enemy's hands, who, they were well assured, were gone out again to the same station where they took the last in order to intercept the said expected ships; they therefore prayed that a sufficient squadron of ships might be immediately sent out to

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cruise, for about 20 days, 150 leagues from the westward as far as to the south-west of Scilly, or thereabouts. The 26th the said memorial, being laid before their Lordships, was by them laid before the Lords Justices, with their favourable opinions, as they assured the Company. True copies of all which memorials, before recited, are hereunto annexed. These, with some verbal applications to enforce the said memorials, are the transactions which the Company have had with the Lords of the Admiralty. What number of cruisers the Lords of the Admiralty did or could send out, or how far their orders were obeyed, we know not, but humbly conceive a sufficient number of cruisers might have preserved not only the Company's ships but many others. *Signed*, by order of the Governor and Company, "Ro. Blackborne, Secʸ." *Dated* East India House, London, the 13th December, 1695.

(k)[1]. Memorial from the East India Company to the Admiralty, of 13 June 1695, referred to in preceding paper, where the substance of it is set out. The Company's ships named therein are :

	Tons.
Resolution - - - - - -	650
Defence - - - - - - -	750
Royal Ja[*mes*] *and Mary* - - - -	670
Princess of Denmark - - - - -	670
Hawk - - - - - - -	400

[appended to preceding].

(k)[2]. Memorial from same to same, of 6 August 1695, referred to in (k) above, where the substance is set out. [Appended to (k)].

(k)[3]. Copies of letters from Paris to the Company, giving the information supplied by the latter to the Admiralty in the above and succeeding memorials. The letters are as follows:—

Paris, Aug. the 5th 1695.—I am very sorry that my letters have been lost in the packet boat that was taken by a Dunkirk privateer, but I am glad you have guessed so right, and therefore I send you the copy of the very same letter that has been lost.

Paris, July 1st 1695.—Here you will find the confirmation of what I told you in my last of the 24th ultimo. They write from Brest that Monsieur de Nesmoud is very busy in fitting out six men of war, three whereof are from 72 to 80 guns, two of 66, and one of 58. They are most certainly designed to go and cruise upon the convoy from the East Indies that the Dutch expect in a little time from Batavia and Ceylon, for they don't hear that the English Company expects any ; that the Commander is to sail afterwards to the Cape of Good Hope, and from thence to the East Indies, to favour the expedition of Monsieur de Serviguey, of which I have given you a large account. The King gives for this enterprise 3 battalions of his best forces, making above 1,500 men, six mortars, and 30 pieces of great cannon, with a proportionable quantity of all sorts of ammunition, fireworks, and grapples. Several engineers and officers are ordered to go on board, so that there is a great design on foot on their side, and which is like to be a fatal blow to the English and Dutch, if not timely prevented. 'Tis said that [the] squadron will set sail towards the latter

end of this month, but, according to my intelligence, [it] cannot be till the middle of the next. They design to take in fresh provisions and other refreshments at St. Jago, belonging to the Portuguese. Each of those ships has 600 or 700 men of equipage, who are all chosen men, and as able to fight on land as to serve as seamen; so that Monsieur de Nesmond may, upon any occasion, land 4,000 men. Two light frigates have been sent by the north of Scotland to get intelligence of that convoy, and they are to join Monsieur de Nesmond at a certain place at sea. Some privateers have also been ordered to cruise in the way, so that our commanders may have timely notice of the ships that shall come from that country. I wonder you can't believe me about Monsieur de Genes; he is gone for Quebec, and is to join M. de Nesmond, who is to be attended by a large fly-boat, of 7 or 8 guns only, to carry provisions, and will be in the nature of a hospital. The design is kept very secret, but now you may rely upon what I say, as the event will justify it.

Paris, 5th.—I had yesterday advice that M. de Nesmond is gone out of the basin into the great road, with the six men that are to sail under his command. He will sail away with the first fair wind. There is no alteration in the design, though since my last I have been inquisitive in this matter.

Paris, Sept. the 9th 1665.—An express came last night to Monsieur de Pontchartrain, with advice that the Marquis of Nesmond has brought into Brest two English East India merchant men, richly laden, which he took, the 17th ultimo, about 150 leagues west of Scilly. I wonder that your Company, which had timely notice of this design, did not send an advice boat to order their ships to steer more westerly; but it seems they did not believe the advices I sent you, but rather some idle stories of your London Gazette, which, without any ground in the world but its ignorance, has positively said that the Marquis de Nesmond had sailed towards the South Sea. However, the Admiral will put again to sea in a few days, the prisoners having told him that three ships more were coming the same way. I don't know if this success will cause any alteration in his project, and if he will proceed on his intended expedition towards the Cape, but I shall enquire about it, though 'tis very like the same design is still on foot, for none of the seamen are suffered to come ashore. He has brought also into that harbour two Barbadoes ships, the *Friend* and [the] *Providence*. [Appended to (*k*).]

(*k*)[4]. Memorial from the Company to the Admiralty, of 10 Sept. 1695, referred to in (*k*) above, where the substance is set out. [Appended to (*k*).]

(*k*)[5]. Petition from the Company to the Lords Justices, of 12 Sept. 1695, reciting the above three memorials to the Admiralty, and the Admiralty's answers thereto (*see k* above), and praying the Lords Justices to direct that a sufficient squadron of men of war be appointed to look out for the Count Nesmond and the Petitioners' expected shipping, which (together with the cruisers that [it] is earnestly requested may continue in their stations in the Soundings and off Cape Clear till the 20th October) the Petitioners humbly pray may be immediately sent out, and ordered to steer their course

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first to Ushant, and endeavour to look into Brest to learn if Nesmond be gone out, and, if he be, that then the said squadron may forthwith proceed W. by N. ½ N. to the length of the Mizzen Head in Ireland, and thence 60 leagues west into the sea, and cruise there off and on to the Soundings till the 20 October, if they have no intelligence sooner. [Referred to in (*k*) and appended thereto.]

(*k*)[6]. Copy of Minute, dated 12 Sept. 1695, of the proceedings that day following upon the presentation of the above petition to the Lords Justices, as follows:— The Governor having delivered in the foregoing petition to their Excellencies, Thursday the 12 Sept. 1695, the Lords of the Admiralty were sent for to their Excellencies, and, after an hour's time and longer, the Governor, Committees, and several of the Adventurers then present were also called in before their Excellencies and acquainted with his Majesty's Orders for stopping Sir Geo. Rooke's squadron; and, after several discourses between their Excellencies, the Lords of the Admiralty, and the Governor and Committees, the Company were referred to the Lords of the Admiralty, who promised their utmost assistance, and accordingly the following desires, being given in unto their Lordships, were granted, being first signed by the Committees deputed by the Governor, &c. to attend their Lordships and pray for such assistance as they should think requisite, which they did *in hæc verba:*

Those ships that are already cruising off Cape Clear to be ordered to cruise 60 leagues to the westward of the Cape, and so back, plying off and on in that station; and the ships from Kinsale to join with them and do the same.

The *Lichfield* and the ships at Plymouth to be ordered to join those already in the Soundings, and cruise from the latitude of 49 to 51 on the outward part of the Soundings.

That the cruise of both squadrons do last till the 20th of October, unless they hear or meet with the East India ships sooner, and in such case that they send such ship or ships into the next safe port with sufficient convoy.

These ships expected home from India are the *Defence* and *Resolution* from Surat, and the *Success* from the Bay, and probably the *London* Frigate from the Fort.

This is what we humbly conceive may be serviceable towards the preservation of the said ships, all which we submit to your Lordships, and humbly pray that, if any other ships can come within your Lordship's reach in any convenient time, your Lordships will please to order them to join with the ships plying off Cape Clear. The original *signed* by Geo. Doddington, Ra: Marshall, and Rob[t]. Dorrill.

Ships now in the Soundings:—

Rupert, *Lenox*, *Crown*, *Owner's Love* fireship.
Weymouth, *Portland*, *Anglesey*, *Foresight* } cruising to the westward of Cape Clear.
Dreadnought, at Plymouth; *Hawk* fireship do.; *Lichfield*, at Portsmouth } These to join those in the Soundings.

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Stirling Castle, at Plymouth, refitting, to join them also, if made ready.

[Enclosed in preceding. Referred to in (*k*).]

(*k*)[7]. Memorial from the Company to the Admiralty of 25 Sept. 1695, referred to in (*k*), where the substance is set out. [Appended to (*k*).]

(*l*) 13 Dec.—New England Merchants' amended Paper. A list of losses to the New England merchants from October, 1694, to the 1st December, 1695, amounting to one hundred and fourteen thousand pounds, having all been taken by the French, and there has been but two small ships arrived since January last, no convoy having been appointed for the New England trade during the whole war, but only for the mast ships.

	£.
The *Abigail*, Jno. Barrell, taken about Nov. '94 in Channel, valued at	5,000
The *Mary*, Robt. Seers, Augt. '94, in Channel	15,000
The *Joanna*, Aaron Beale, Nov. '94, in Channel	6,000
The *Pelican*,* Daggett, Nov. '94, in Channel	10,000
The *Three Brothers*, Saunders, Nov. '94, in Channel	10,000
The *Swan*, Gilbert, Oct. '95, in Channel	40,000
The *William and Mary*, Herbert, Ap. '95, in Channel	5,000
The *Trial*, Horton, Nov. '94, off Cape Ortegal	5,000
The *Elizabeth*, Price, Nov. '94, in Channel	1,000
The *Sarah*, Wilson, Nov. '94, off Cape Ortegal	3,000
The *Falkland*, Long, Dec. '94, in Channel	10,000
The *Phœnix*, Fifield, Nov. '94, off Cape Ortegal	4,000
	£. 114,000

The above ships coming home without convoy, we knew not the time of their departure, so no application could be made to the Admiralty, but might have been saved had there been cruisers in the Channel, according to the Act of Parliament, as we humbly conceive. As to the above said ships being taken, we verily believe to be true. *Signed* Saml. Ball, John Ive, Fra: Cawfield, Rich[d]. Soame.

(*m*) 13 Dec.—African Company's amended Paper, adding dates to their previous Paper (*i*)[1] above (*see* MS. Min., 10 Dec.), as follows :—

An account of the Royal African Company's losses from March 1695 to October 1695.

	£.
The *Three Brothers*, Capt. Hudson, taken by a French man of war on the north part of Guinea, in April, 1695	3,000
The *Return*, Capt. Reeves, taken between Old Calabar and Barbadoes, in May	4,000
The *Guinea* Galley, Capt. Piles, taken by two privateers near Cape Clear the 1st of August, and carried into Brest	1,650
The *Avarilla*, Capt. Robinson, taken by two privateers off Scilly the 23 August	7,000

* The 'Friendship' in earlier Paper (*e*).

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The *Deborah and Martha*, *Reformation*, *Providence*,	taken by two privateers off Scilly the 23 Augt. - -	
The *Joan*, The *Eagle*	both taken in the Channel, much about the same time, the *Joan* from Barbadoes and the *Eagle* from Antigua - - - - - -	4,000
By several ships from the Leeward Islands, of which no invoice yet come to hand - - - -		10,000
		£. 29,650

Signed, For the Royal African Company of England, Sam. Heron, Secty. [Delivered this day, and read in Select Committee on 14th, where these losses, except the first two, were referred to the Admiralty for explanations. MS. Min., 13 Dec.; Com. Book, 14 Dec.]

(*n*) 13 Dec.—Barbadoes Merchants amended Paper. It adds to their previous Paper (*b*) the following notes:—Nos. 1 to 11. These eleven ships were lost in the hurricane in Barbadoes, September 29th, 1694, being several of them detained five months after the fixed time appointed to sail from London. Nos. 12 to 19. These eight ships were lost in the hurricane after they departed Barbadoes, being ships that were detained here five months after their prefixed time of their sailing from London, so were winter ships, which that trade will not allow of. Nos. 20 to 31 and 34 to 37. These sixteen ships were taken by the French privateers in and near the Soundings and off the Land's End, about 23 Aug. last twelve of them, and four about January last. Nos. 32 and 33 were forced ashore then by the enemy. Nos. 38 to 40 were taken accidentally going out to Barbadoes. We have made several applications to the Admiralty in July and August last, and acquainted them that the fleet expected had no convoy with them, so pressed the harder for the cruisers to stay out. *Dated* London, Dec. 9, 1695, and *signed* Robt. Heysham, Edward Haistwell, Rowland Tryon, Steph: Skynner. [Referred to the Admiralty for explanations. *See* Com. Book, 14 Dec., and L.J., XV. 613.]

(*o*) 13 Dec.—Leeward Islands Merchants' amended Paper, substituted for their previous Paper (*g*). It is as follows:—

A list of ships that were lost last year, on their way home from the Leeward Islands to the port of London, from September 1694 to October 1695; with an estimate of the value of the said ships, and the cargoes on board them.

Taken by the French, viz^{t}.:—

	Burthen.	£.
1694, Sept.—The *Endeavour*, Capt. Dagger, taken in the latitude of 36 degrees, value about - - - -	150 tons	7,000
1694, Sept.—The *Wolf*, Capt. Purvis, taken with the *Endeavour* - -	400 tons	20,000
1694, Oct.—The *Agreement* Capt. Symmonds, taken near the Western Islands - - - - - -	250 tons	12,000

	Burthen.	£.
1694–5, Feb.—The *Antigua Merchant*, Capt. Perry, taken out of Berehaven in Ireland	200 tons	10,000
1695, April.—The *Dove*, Capt. Eyres, taken in the Soundings	140 tons	6,000
1695, May.—The *Good Friends*, Capt. Strode, taken in the Soundings	120 tons	6,000
1695, May.—The *Mary*, Capt. Lambe, taken in the Soundings	180 tons	8,000
1695, June.—The *Eagle*, Capt. Ewins, taken in the Soundings	250 tons	12,000
1695, Aug.—The *Swan*, Capt. Stone, taken in the Soundings	70 tons	3,000
1695, Sept.—The *Union*, Capt. Milk, taken off the Lizard	80 tons	5,000
1695, Oct.—The *Gilbert and Hester*, Capt. Porter, taken 40 leagues west of Cape Clear	250 tons	12,000
1695, Oct.—The *Elizabeth and Mary*, Capt. Lyle, taken in company with the *Gilbert and Hester*	250 tons	12,000
Cast away, viz^{t}. :—		
1694, Oct.—The *Samuel*, Capt. Edgerton, upon Scilly	180 tons	8,000
1695, July.—The *Palm Tree*, Capt. Turner, in the West Indies	150 tons	7,000
1695, July.—The *Endeavour*, Capt. Addison, in the West Indies	200 tons	10,000
		138,000

The ships from the abovesaid Islands not coming home in fleets, but singly as they are loaded, occasioned that no application was made to the Admiralty for cruisers to secure them. *Signed* Rd. Cary, Saml. Ball. [See L. J., XV. 613, and Com. Book, 14 Dec.]

(*p*) 27 Dec.—Papers delivered from the Admiralty this day (L. J., XV. 622), in answer to Orders of 14th (*ib.*, 613), and referred to a Select Committee on 4 Jan. 1695–6 (*ib.*, 629), as follows :—

(*p*^{1}) 27 Dec.—Report of the Admiralty on the six questions referred to them on the 14th, viz. :

(1) To give an account how the ships mentioned in an annexed list (*see* Paper *b*) delivered by the Barbadoes Merchants came to be detained five months after the time prefixed for their sailing, which occasioned their being lost in the hurricanes, and why the sixteen ships which were taken in the Soundings and off the Land's End came without convoy, and that the cruisers stayed not in their stations as the merchants desired.

(2) How the ship *Antigua Merchant* came to be taken in Feb. 1694–5 out of Berehaven in Ireland, and what care has been taken of the coasts of Ireland (*see* Paper *o*).

(3) To give an account why there were not cruisers in the Channel from October '94 to 1st Dec. '95, for want whereof, the

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New England merchants say (*see* Paper *l*), several of their ships in their passage home without convoy were taken, to the value of 114,000*l*.

(4) To give answers to the loss of several ships of the Royal African Company's, mentioned in the annexed list (*see* Paper *m*), between March '95 and Oct. following, off Cape Clear, Scilly, and in the Channel.

(5) To give an account in writing how the cruisers and convoys appointed by Act of Parliament were disposed of this last year.

(6) And to give answers also to the several complaints of the East India Company, contained in a paper of theirs annexed (*see* Paper *k*).

Their answer is as follows :—

To the 1st, That we did, in answer to your Lordships' Order of 14 Feb. 1694,* acquaint your Lordships how we proceeded with relation to the getting the ships ready which were designed for Barbadoes ; that on 19 April following† we were directed by Order in Council to stop the Barbadoes and Jamaica convoys till further Orders, upon a representation that some of the merchant ships were not ready ; that the 7th of May following the stop was taken off by Order of Council, and the convoy ordered the 8th to proceed, which they did accordingly the 8th of June, as wind and weather would permit. And, as to the sixteen ships, part of which are said to have been taken by the enemy in August‡, and the rest in January last§, near the Soundings and off the Land's End ; We do acquaint your Lordships that [‖ the *Tiger* being relieved by the *Bristol* and *Playprize*, which were appointed to attend on the Island of Barbadoes, she sailed from that island the 2nd of April 1695 with 24 merchant ships bound for England (having Orders to bring all that were ready to sail with her), and her Commander gives an account that he arrived at Falmouth the 24th of May 1695, and all the merchant ships with him ; so that there were no men of war at Barbadoes when the ships that were taken as aforesaid came from thence, except those which attended on the Island, and we do not know why they did not come in company with the *Tiger* ;] but that this Board did, upon the merchants' application the 10th of July last, direct the several ships which were cruising in the Soundings to take care for the security of them, as well as of those expected from the East Indies and other parts, as will more particularly appear by the extracts of our Orders in the paper hereunto annexed.

To the 2nd : We know not how the *Antigua Merchant* came to be taken in Feb. 1694–5 out of Bere harbour in Ireland, but do acquaint your Lordships that, for protecting the ships which should come from time to time on the coasts of that kingdom from the enemy, the Lords Justices there¶ had, at the time this ship was taken, five or six ships under their immediate direction, and two fourth-rates were cruising off Cape Clear.

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* In corrected Paper (*q*) "1694–5."
† In Paper (*q*) "1694."
‡ Paper (*q*) adds "1695."
§ In Paper (*q*) "1694 5."
‖ This passage, down to the end of the square brackets, is supplied from the corrected Paper (*q*), instead of the following :—"there were no men of war in condition, as we believe, to come with them," which appears in this Paper.
¶ In Paper (*q*) "of Ireland."

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To the 3rd, 4th, and 5th : We do acquaint your Lordships that we have taken all possible care to dispose of the several cruisers in such stations where they might be of most service, that the whole number directed by Act of Parliament have been employed, as your Lordships may be informed by the account hereunto annexed (Paper p^2), and that we have used our best endeavours to secure the trade ; but, in regard the enemy have constantly men of war and great numbers of privateers in the Soundings, where the sea is very wide, which ships of war and privateers have been chased by our cruisers far into the sea, where the trade has most suffered, that the merchants do trade during this time of extraordinary action with almost the same freedom as in time of peace, it is, in our opinion, altogether impossible for the greatest number of cruisers to secure them all from the enemy's hands, especially when the masters of the merchant ships under convoy do expose themselves to hazard by leaving the said convoys when they come within some distance of the land, as has often happened, to the occasioning the loss of great numbers of ships. We are sorry the Plantation trade, and particularly that of Barbadoes, has suffered so very much, they frequently coming home without convoys ; but this has in in a great measure been occasioned by the extraordinary mortality those parts have of late been afflicted with, which not only disabled the men of war from convoying home with the trade at the usual times, or of doing any service whilst there, but some of them from returning at all till they could be supplied with men ; and upon this occasion we cannot but observe that, until the merchants trading into foreign parts can be obliged to sail in fleets, and at stated times, it will be morally impossible to provide for the security of their ships from the enemy.

And, as to what relates to the complaints of the East India Company, your Lordships will receive herewith a particular account (Paper p^3) of what applications those gentlemen have made to this Board, and what Orders we have from time to time given upon their said applications for the protection of their ships expected home, which account we hope will give your Lordships satisfaction. *Signed* E. Russell, J. Lowther, H. Priestman, Robt. Austen, R. Rich, Jno. Houblon ; By command of the Comrs., Wm. Bridgeman. *Dated* Admiralty Office, 23 Dec. 1695. [Read on 6 Jan. 1695–6 before the Select Committee, and withdrawn by the Admiralty for correction. Com. Book. *See* Paper (*q*) for corrected version.]

(p^2) 27 Dec.—An account of the number of Cruisers employed the last year, and of their stations, and of the times appointed to them respectively to cruise in those stations. See No. 975. From this return it appears that from 50 to 74 cruisers were employed together at various times during the year 1695. According to the latest orders issued prior to the 1st August there were employed on various services at that date :—

In the North Sea.—1 Third Rate, 2 Fourth, 1 Fifth, and 1 Sixth Rates	5
In the Channel.—1 Third Rate, 1 Fourth, 5 Fifth, and 7 Sixth Rates	14
Off the Lizard.—1 Sixth Rate	1
In the Bristol Channel.—2 Fifth Rate and 3 Sixth Rates	5

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Off Cape Clear.—1 Fourth Rate	1
In the Soundings.—7 Third and 6 Fourth Rates	13
On the west of Ireland.—Three Fourth Rates	3
On the Irish Coast.—4 Fifth Rates and 1 Sixth Rate	5
On the north west coast of Scotland.—1 Fourth Rate	1
With the Duke of Shrewsbury.—1 Fourth Rate	1
On the East Coast.—3 Fourth Rates, 6 Fifth Rates, and 2 Sixth Rates	11
From Kinsale to Spithead.—1 Fourth Rate	1
Off the North Foreland.—1 Sixth Rate	1
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A monthly abstract at the end shows that there were employed

In December 1694	53	Vessels
„ January 1694–5	52	„
„ February „	50	„
„ March „	50	„
„ April 1695	53	„
„ May „	55	„
„ June „	58	„
„ July „	61	„
„ August „	61	„
„ September „	74	„
„ October „	70	„
„ November „	67	„

Signed as preceding paper. [Read at the Select Committee on 6 Jan., and Admiralty ordered to make it more explicit. Com. Book, 6 and 13 Jan. 1695–6. *See* Paper *q**.]

(p^3) 27 Dec.—An account of the memorials delivered to the Admiralty by the East India Company for protection of their ships coming home, and what ships have been from time to time appointed to cruise for them. On 13 June 1695, memorial from the Company (Papers *k* and k^1) for some frigates. At that time there were eleven ships in the Soundings. On 25 May, M. Carmarthen ordered to cruise there in the *Lenox*, but, detained by private affairs, did not reach Plymouth till 17 June, whence he wrote to the Admiralty that he would wait there till joined by a light frigate, as he heard the French were in the chops of the Channel, and he did not know exactly where to find his own squadron (*see* Paper u^2 No. 2). On 20 June, in answer, the Admiralty ordered him to wait there for the *Rupert* and *Foresight* and take them to the Soundings. On 21 June the *Rochester* was ordered to join him, and the same day he wrote to say he was detained by contrary winds, and that he had stopped the *Rupert* and *Foresight*, hoping to have leave to take them with him. Otherwise he would sail without them; but he complained of a Flag being sent alone to find his ships. On 22 June he wrote again, having received permission to take the two vessels, and expressed himself as satisfied. On 24 June the *Crown* was ordered to join him, and she and the *Rochester* reached Plymouth on 7 July, and sailed on the 8th. The *Crown* having been disabled in a chase, and captured a 6 gun prize and convoyed two Virginia ships, finally left Plymouth for the Soundings till Sept. The *Rochester* took two 10 gun French

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privateers, and left Plymouth again on 22 July. On 24 June the *Weymouth* also was ordered to join him, and did so. On 26 June M. Carmarthen sailed from Plymouth, but was forced back by contrary winds. On 28 June he wrote he was getting under sail again. On 6 July M. Carmarthen wrote that he had not found his squadron, so he had put into Kinsale to make inquiries, intending to return to Plymouth if his squadron had done so, as he did not think it proper for a Flag to cruise with only three ships. On 9 July he wrote enclosing an extract from a letter of Captain Cole (commanding his squadron) to the Collector of Customs at Kinsale, from which, and from information given by a convoy from the Straits, he inferred that Cole had sailed to England ; and he called a Council of War, which decided that M. Carmarthen and his ships should return to Plymouth in company with the Straits fleet. On 10 July Captain Cole reached Plymouth with eight ships, and informed the Admiralty that, having heard from the *Germoon* advice-boat that M. Carmarthen had sailed westward to look for him and take command of his vessels, he also sailed westward in search of him till the 8th, when he returned to Plymouth for repairs. On 12 July the Admiralty ordered Cole to join M Carmarthen with four ships, leaving the others to refit. Cole sailed on 18 July, but on 23rd L. Berkeley ordered him to join his fleet. On 17 July orders were sent to M. Carmarthen to send two foul ships to convoy the *Canterbury* mastship from Kinsale to Plymouth. On 19 July my lord wrote from Cork to say he had been driven in there by stress of weather, but hoped to sail in the evening, and would await orders at Plymouth. In another letter of same date he said that, hearing of the loss of an East India ship, he decided to see the Cadiz fleet safe within the Lizard before parting with any man of war. On 20 July he was ordered to send the *Weymouth* to Portsmouth to be cleaned, so soon as the *Coventry* joined him. On 22 July my lord was ordered to sail from Plymouth with 11 ships and join Capt. Cole in the Soundings, but the *Stirling Castle*, Capt. Dean, and another ship were ordered on 24th specially to look out for the six East Indiamen off Cape Clear. On 25 July my lord was ordered to convoy the Cadiz fleet no further than Scilly, and return to the Soundings. On 26 July L. Berkeley was ordered to send the *Captain* to him there ; but M. Carmarthen, on his way from Cork to Plymouth, meeting Cole with some men of war and merchant ships sailing from Plymouth to the Soundings on the 23rd, mistook them for the enemy, called a Council of War, and with their concurrence ran into Milford Haven with his ships and convoy. On 27 July Orders were sent to my lord explaining the mistake, and ordering him back to his station in the Soundings, after seeing the Cadiz fleet safe, and on 30 July the *Crown* was ordered to go straight to the Soundings. On 28 July my lord wrote from Milford that Cole, with the *Dreadnought*, *Rochester*, and *Hawk* fireship, had come in there and explained the mistake, and my lord remarked that, if Cole had sent the *Rochester*, which was a clean ship, to inform him what the suspected ships were, the mistake would have been avoided. He added that he would go to Plymouth, and return to the Soundings with such of his ships as were cleaning at that port. On 2 August, pursuant to directions from the Lords Justices,

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M. Carmarthen was ordered to leave the Cadiz fleet to their own convoy, and proceed at once to the Soundings. On the same day he wrote from Milford that he was waiting for a fair wind, but had ordered the *Foresight* and *Rochester* to cruise off Cape Clear, and expected to be joined by the *Anglesey*. On 5 August he was ordered, after he had seen the Cadiz ships to Land's End, to send all his ships, except the *Lenox* and *Hawk* fireship, with Capt. Cole into the Soundings, and himself return to Plymouth with those two vessels; where being arrived, he was at liberty to come to town, in regard the ships of which his squadron consisted were disposed of on several stations, and thereby not a sufficient number together to accompany a Flag. On 7 August he wrote from Milford to acknowledge receipt of the Order for him to sail to the Soundings, and said he would proceed thither. On 6 Aug. the Company sent another memorial for more ships to meet M. de Nesmond (*see* Papers *k*, k^2, k^3). This was submitted to the Lords Justices. On 14 Aug. Cole, who was cruising between Land's End and Mount's Bay, was ordered into the Soundings, and the *Rupert* and *Owner's Love* fireship were also ordered there. On 15 Aug. the *Kingfisher* or *Anglesey* were ordered to take the goods of the *Henry* East Indiaman on board. On 16 Aug. Messrs. Fawkener, Heathcote, Rokeby, and Godfrey wrote to ask that the ship appointed to assist the *Henry* at Dingle Bay should look out for the *Edward* on her way from India; and orders were sent the same day to that effect. On 20 Aug. Capt. Mynys, of the *Lenox*, was ordered to convoy the Barbadoes and Jamaica fleets outwards, and then repair to the Soundings, and take command of the ships there, after sending back the *Dreadnought* to Plymouth. On 31 Aug. the *Weymouth* was ordered to the Soundings after being cleaned, and on 3 and 5 Sept. the *Stirling Castle*, *Portland*, and *Foresight* were also ordered there. On 7 Sept. the Commander in Chief off Cape Clear was ordered to look out for the East India ships. On 10 Sept. another memorial from the Company (Papers *k*, k^4) was followed, on the 11th, by a more stringent Order to the same effect. On 12 Sept. the Company petitioned the Lords Justices (Papers *k*, k^5), and a Committee detailed the assistance they required (*see* Paper k^6). Whereupon, the same day, Captain Jumper, of the *Weymouth*, was ordered with four ships from Kinsale to cruise off Cape Clear, and Capt. Cole with four ships from Plymouth was ordered to the Soundings and look out for the East India ships; and the *Lichfield* and *Stirling Castle* were also ordered to the Soundings (*see* Paper k^6, which suggests these Orders). On 13 Sept. the like Orders were sent to Capt. Dilkes of the *Rupert*, in the Soundings, who was to put himself under Capt. Cole's command. At the time these Orders were sent, the ships concerned were stationed as follows:—

To cruise off Cape Clear	*Anglesey*, *Foresight*	were cruising off Cape Clear.
	Weymouth, *Portland*	sailed from Plymouth thither 18 Sept.

To cruise in the Soundings	*Dreadnought*, *Hawk* fireship	were gone to the Groin for the *Falkland* mastship the 11 Sept.
	Stirling Castle	was defective and could not go from Plymouth.
	Rupert, *Lenox*, *Crown*, *Lichfield*, *Owner's Love* fireship	sailed from Plymouth 10 Sept., and were cruising in the Soundings.

If the Company had told the Admiralty in time that their ships had been ordered to come to Galway, these vessels might have been posted there and saved them. On 13 Sept., on hearing that two East Indiamen had been captured and taken to Brest, Rear Admiral Hopson was ordered to take seven ships from St. Helens (part of the fleet designed for the Straits), and endeavour to intercept the French Fleet off Brest. On 20 Sept. Mr. Hopson wrote that he was off the Lizard. On 24 Sept. he wrote off Ushant that the *Saudadoes* had looked into Brest Water and seen 19 men of war, 14 of them great ships, some three deckers, and had been chased by two; so he durst not remain there, but concluded to cruise 40 leagues west by south from Ushant, in the hope of intercepting the enemy's Fleet and their prizes going home. On 27 Sept., on receipt of another memorial from the Company (Papers *k*, k^7), Hopson was ordered to cruise 150 leagues west of Scilly until 20 Oct., and look out for East India, Barbadoes, New England, or other ships. On 1 Oct. he acknowledged receipt of this Order. On 29 Sept. he wrote, off the Lizard, that he had been on his way to his new station when he learnt, from some French prisoners taken by a Guernsey privateer, that the French Fleet of 19 sail, consisting of two ships of 100 guns, and the rest of 50 to 60 guns each, commanded by M. Nesmond, and lying at anchor between Belle Isle and Gibrol . . ., had some design on our coast, especially Spithead. So, to prevent a surprise, he and his captains thought it best to come back to the Channel, and lie between the Lizard and the Start, so as to be at hand in case of need. The westerly winds were keeping the French ships in harbour, so he hoped the merchant ships would get safe home. He met with no privateers, and therefore believed the enemy were manning their ships. On 2 Oct. the Lords Justices, having received orders from the King that Sir Geo: Rooke should forthwith proceed to the Straits, ordered Mr. Hopson back to Spithead. On 15 Oct. Capt. Jumper, of the *Weymouth*, at Kinsale was ordered to take three other ships, and leave two to cruise off Cape Clear, and himself with another go into the Soundings. *Dated* Admiralty Office, 23 Dec. *Signed* as preceding papers. [Read repeatedly in Select Committee as Paper No. 3. Com. Book. Notes I. above, pages 67 and 68. The imputations against Lord Carmarthen were answered in later papers (*see* Papers *u* and Notes III. above, pages 69–74).]

(*q*) 13 Jan. 1695–6.—Corrected Answer of the Admiralty, dated 23 Dec., and substituted for Paper (p^1) above on 13 Jan. 1695–6. The alterations are noted on (p^1). *Signed* as

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preceding papers. *See* Com. Book, 6 and 13 Jan. Notes I. above, page 66.

(*q**) 23 Jan.—Account of the cruisers and convoys from the 1st September 1694 to the 1st October 1695, with their Orders, time of sailing, from what place, into what port put in, and the reasons of their putting in and stay, with other observations. *Signed* E. Russell, H. Priestman, R. Rich, Jno. Houblon. By command of the Comrs., Wm. Bridgeman. [Supplementary to Paper p^2. Laid before the Committee this day pursuant to Order of 6 Jan. See Com. Book.]

(*r*) 22 Feb. 1695–6.—Answers of the Admiralty to six questions asked them on 7th and 10th Feb., as follows :—

(1) *Question.*—Why the Lord Kiveton was recalled, and why the ships were dispersed ?

Answer.—The Board not being satisfied with my Lord Carmarthen's proceedings in his cruise, and his carrying the ships into Milford upon the sight of some men of war with Capt. Cole, which were ordered to be under his command, laid it before the Lords Justices the 2nd August last, who, according to our apprehensions, were no better satisfied therewith than we, and left it to us whether his Lordship should be relieved ; wherefore, upon further consideration at a fuller Board, it was resolved he should be recalled, and in the softest manner, and accordingly Orders were sent to him the 5th of August ; and, as for dispersing the ships, we gave no Orders for the same, only those which directed the Lord Carmarthen to bring the *Lenox* and *Hawk* fireship to Plymouth.

(2) *Question.*—What ships were cruising 60 or 80 leagues from Cape Clear, and how many, and at what time ?

Answer.—The *Weymouth* and *Portland* sailed from Plymouth the 18th of September, joined the *Foresight* the 3rd of October upon the coast of Ireland, and cruised till the 23rd of the same month.

(3) *Question.*—Why no additional strength was sent into the Soundings ?

Answer.—There were no other ships, as will appear by the list herewith delivered.

(4) *Question.*—Why was answer made to the East India Company that the strength they desired could not be sent out ?

Answer.—There were no other ships to send, but the squadron appointed to go to the Straits.

(5) *Question.*—Why did you fix a station to Capt. Cole's squadron at this time, and not at other times ?

Answer.—The East India Company particularly desired that the ships which could be got ready to go into the Soundings might cruise from the lat. of 49 to 51 on the outward part of the Soundings, and that the ships off Cape Clear might cruise 60 leagues to the westward of it, and that both squadrons might continue to cruise till the 20th of October.

(6) *Question.*—Why, after the complaints made against Capt. Cole, he was not tried at a Court Martial, but employed as a Commodore ?¶

Answer.—Capt. Cole having written us a letter (of which the annexed is a copy) (see Paper *ad*) complaining of hard usage from

¶ See also Notes IV. above, pages 74 and 75.

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my Lord Carmarthen, we did not think it reasonable to try him and not his Lordship. Not fit to try my Lord without the King's directions. *Signed* H. Priestman, Robt. Austen, R. Rich, Jno. Houblon. By Command of the Commrs., Wm. Bridgeman. [Delivered to the Committee this day. Com. Book. See Notes I, above, page 68.]

(*s*) 22 Feb. 1695–6. A particular account where all the ships in the Fleet were the 5th, 6th, and 7th of August, and what Orders they had. It shows—

On East Coast 2 Fourth, 3 Fifth, and 1 Sixth Rate	6
At Blackstakes 1 First, 1 Second, and 1 Third Rate	3
At Kingroad 1 Third, 3 Fifth, 1 Sixth Rate	5
At Sheerness 1 Fourth, 2 Fifth, 2 Sixth Rate	5
At Longreach 1 Sixth Rate	1
At the Nore 2 Second, 2 Third, 1 Fourth, 2 Fifth, 1 Sixth Rate	8
At the Downs 6 Third, 1 Fourth, 7 Fifth, 11 Sixth Rate	25
At Portsmouth 1 Third Rate	1
At Spithead 2 First, 1 Second, 1 Sixth Rate	4
At St. Helens 1 Third, 1 Fourth Rate	2
At Plymouth 1 Fourth Rate	1
At Jersey 1 Sixth Rate	1
Lynn Convoy 1 Sixth Rate	1
In the Channel 1 Fourth, 3 Fifth, 3 Sixth Rate	7
At Milford 4 Third, 3 Fourth Rate	7
On way to Soundings 2 Fourth Rate	2
At Kinsale 2 Fourth, 2 Fifth Rate	4
Off Cape Clear 1 Third, 1 Fourth Rate	2
On Coast of Ireland 4 Fifth, 1 Sixth Rate	5
On West of Ireland 1 Fourth Rate	1
On Coast of France 1 Sixth Rate	1
Between Downs and Ostend 1 Sixth Rate	1
Newfoundland Convoy 1 Fourth, 1 Fifth Rate	2
In Norway 1 Third, 2 Fourth, 1 Fifth Rate	4
Under King's Orders 1 Fourth Rate	1
To follow D. Shrewsbury 1 Fourth Rate	1
	101
In the Mediterranean 3 First, 5 Second, 24 Third, 17 Fourth, 3 Fifth, 8 Sixth Rate	60
In the West Indies 1 Third, 7 Fourth, 6 Fifth, 1 Sixth Rate	15
	176

Dated Admiralty Office, Feb. 1695. *Signed*, by Command of the Comrs., Wm. Bridgeman. [Delivered this day to the Committee, pursuant to Order of 7 Feb. Com. Book. Notes I. above, page 68. See also Paper p^2.]

(*t*) Papers connected with the case of the *Avarilla* (*see* Notes II. above, pages 68 and 69), as follows:—

(*t*)[1] 10 Dec.—The case of the owners of the ship *Avarilla*, burthen 350 tons. The said ship was, in September 1694,

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permitted by the Government to go to Guinea in the service of the Royal African Co., manned with 60 men and 30 guns, and from thence intended to Barbadoes and Virginia. In June 1695 she arrived at Barbadoes with her freight of negroes, having by the providence of God not buried one man, nor had one man sick during the voyage to that place. But, immediately upon her arrival there, Capt. Doyley, commander of his Majesty's ship the *Bristol*, pressed fifteen of his seamen, and in 3 days after Capt. Massam, commander of a small frigate, pressed six men, upon which seven or eight more deserted the ship, for fear, as is supposed, of the same usage. There remained then on board but four common seamen, besides boys, and about twenty officers; and, upon consultation, they thought it not safe to proceed to Virginia, being so disabled, but to determine their outward bound voyage at Barbadoes, the master there disposing of his negroes, and lading home from thence to London. But, finding his number of men insufficient to navigate his ship and make any reasonable defence in case of an attack, thought it advisable to redeem four of his men of the captain that pressed them, at five pounds per man, and withal gave to the captain of the *Bristol* ten pounds to convoy him clear of the Leeward Islands. In his passage home to England, in company with eleven sail more, was met with by two French privateers in Soundings, and, after a fight of three hours, in which the captain and six more were killed and six or seven wounded, the said ship and four men were taken, to the loss of the interested in that single ship of above twenty-five thousand pounds. In all probability, had he had his complement of men, he might have escaped, the two privateers not exceeding him together in number of guns, but were encouraged to assault him by his insufficiency to defend himself. This is the third ship that some of these gentlemen have lost by pressing their men at sea and in foreign parts. *Signed* Arthur Bailey. [Delivered this day (L. J., XV. 608), pursuant to Order of 6 Dec. (*ib.* 606), and on 13th a copy ordered to be sent to the Admiralty (*ib.* 611 and MS. Min.)].

(t^2) 17 Dec.—Answer of the Admiralty to preceding. They have never been applied to by the owners, but, having had some notice of the matter from a letter read to them when attending the Lords Justices on 3 Sept. last, resolved to await the arrival of Capt. Doyley, first lieutenant of the *Tiger*, who succeeded the commander of the *Bristol* on his death in the West Indies, but who was still out there, to have the matter strictly inquired into and the offenders severely punished. *Signed* J. Lowther, H. Priestman, Robt. Austen, R. Rich, Jno. Houblon. By command of the Comrs., Wm. Bridgeman. *Dated* 16 Dec. [Delivered this day, pursuant to Order of 13 Dec. (L. J., XV. 611; MS. Min.), and Admiralty ordered to acquaint the House of the movements of Captains Doyley and Massam. (L. J., XV. 615; MS. Min.)]

(t^3) 19 Dec.—Further answer of the Admiralty. They will acquaint the House when Capt. Doyley arrives, and, as to Capt. Massam, if he be captain of a small frigate, it is what they have yet no advice of, no such officer going from hence; but the ships at Barbadoes will be relieved shortly, when he may be in England, about the end of next summer. *Signed* as preceding, with the additional signature of E. Russell, and *dated* 18 Dec.

[Delivered this day, pursuant to Order of 17 Dec. L. J., XV. 615.] 1695. — No. 959.

(*u*) 11 Jan. 1695–6.—Papers delivered this day to the Select Committee by the Marquess of Carmarthen (Lord Kiveton) in answer to reflections upon his conduct in the Admiralty's Paper (p^3 above). Com. Book, 6 and 11 Jan. Read on 13 and 14 Jan. and following days. Com. Book. *See* Notes III. above, pages 69 to 74. They are as follows :—

(*u*[1]) 11 Jan. 1695–6.—The Marquess of Carmarthen's answer to the memorial delivered by the Lords of the Admiralty to the House of Lords, 23 Dec. 1695, for so much as concerns the Marquess in the said memorial.

13 June.—The said memorial begins with an application made by the East India Company to the Lords of the Admiralty, 13 June 1695, desiring that some frigate might be appointed to cruise to the westward of Cape Clear from the 10th July to the 10th Sept. following, or &c., as per said memorial.

Answer.—This application was made but the day before I went on board the *Lenox* at Spithead, of which I had no notice, nor by the said memorial was that cruise desired by the Merchants until the 10th July following.

In the said paragraphs the ships *Dorsetshire* and *Weymouth* are said to be cruising at that time in the Soundings, together with other ships therein named.

Answer.—That the ships the *Dorsetshire* and the *Weymouth* were neither of them in the Soundings at that time.

25 May.—The said memorial saith that on the 25 May 1695 I had orders to sail with the *Lenox* from Spithead into the Soundings, and take under my command the *Dreadnought*, &c.

Answer.—My Order was not to sail with the *Lenox* from Spithead into the Soundings, as by the memorial, nor was the *Lenox* at Spithead till 2nd June following, and their Lordships of the Admiralty did write me a letter of the 25 May, together with the Order of the same date, wherein they own the said ship *Lenox* to be then at the Nore but ordered to the Downs ; as by their letter.

In the said paragraph of the memorial it is said that I, being detained by my private affairs in town, did not reach Plymouth with the aforesaid ship *Lenox* before the 17th June following.

Answer.—Their Lordships are pleased neither to take notice of a letter of the 11th June (? Paper *w*) written to me by their order, which letter was the first positive direction I received for going on board, nor do they mention my letter of the 14th June, when I wrote to them from on board the *Lenox* at Spithead, and was preparing to sail, which was but twelve days after the arrival of the said ship at Spithead, and but three days after the said positive order of the 11th. And I was so far from being at any time detained in town by my own private affairs, that my time was taken up in the manner and for the reasons following, viz. :—

25 May.—My reasons for staying in town.—Their Lordships' Order of the 25 May being not at all pressing, as appears by the said Order, I went to their Lordships and acquainted them it was necessary I should go to Chatham to give directions about a frigate I was then building there for his Majesty, by his particular command, which their Lordships permitted, and

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therenpon I went down thither twice or thriee, and upon my retnrn always attended and solieited them to allow three or four elean nimble frigates might be added to that squadron I was to eommand, which, I told them, in regard the number was so small, and they all, exeept one, heavy sailers and foul, wonld render it impossible for me to eomply with that part of their Lordships' Order for protecting the trade, unless what I desired might be added to them. For that, Brest being so advantageonsly situated, with the least industry in the world they might not only gain freqnent intelligence of onr strength and proceedings, but also at any time with great ease send out too great a squadron for us to deal with, especially considering that from the main body of any squadron appointed to that station to protect the trade there mnst, of neeessity, be some ships detaehed to look for homeward bonnd merehant ships; for that not only those which come from different parts, but even those that come from the very same place, do often fall into the Soundings in different parts of it.

This solicitation, whieh I thonght so necessary, took np a great part of my time, and at last their Lordships gave me hope that my desire in the matter wonld, in a short time, be eomplied with, and also that, by the time I arrived at Plymouth, I should find the *Weymouth* and some other fitting ships with orders to join me, without which hopes, I acknowledge, I should mneh sooner have laid down my commission than have undertaken so hazardons and ridiculous an enterprise (an errand never any Flag had before this time been sent on), in a heavy sailing ship alone, to look out for a squadron in time of war, in the large eompass of the Soundings, and which their Lordships (in their letter of 25 May, sent me with their Order of the same date for this proeeeding) show that they eannot inform me with any certainty where to find, and at a time when it was strongly reported that the Marqnis de Nesmond was at sea, or daily expected to be so, with a greater force than was to be under my eommand. So that, not having any other ship to make them, I might as well have fallen in with that squadron as my own, or at least so near as that it would have been impossible for so heavy a sailer to have got off again. And your Lordships will find, by the snbsequent Orders, that the Admiralty did not think fit to let me depart from Plymouth till they had made an addition of some ships to me.

17 Jnne.—In the next plaee, they mention the reeeipt of a letter of mine of 17 Jnne, whieh they eall my first, but was my seeond, in the extraeting of which will be fonnd many alterations and omissions disagreeing with my original letter, viz^{t}. ;—

That the *Weymouth* was not then at Plymouth, when I wrote in said letter she was there; and I have reason to doubt they said nothing of her, becanse they had before given me hopes of having her in my sqnadron, being a nimble sailer and clean; and [it] was one of my reasons for calling in at Plymouth, to have her with me, being sent ont with never a ship to attend the Flag, instead whereof I found her appointed to attend the fishery, which a worse sailer would have done as well.

They represent the matter of Mons. Nesmond very nnfairly, and not at all agreeable to the words of my said letter. They omit part of my said letter, viz., "till an opportunity of wind." They represent me as afraid of misfortnnes which might

happen under my circumstances, and speak it in such a manner as if that concern were for myself and not for the service, in which I do appeal to my letter, which I desire may be read.

20 June.—Their Lordships mention their Order to me of 20 June to remain at Plymouth till the *Rupert* and *Foresight* should arrive, &c.

Answer.—This Order shows that their Lordships thought it fit for me to remain at Plymouth till I could be joined with more ships, which confirms the opinion that I did well in putting in there, and staying for more ships.

The 21 June their Lordships say that the *Rochester* was ordered to join me in the Soundings, but she came not to me till I was at Milford, and I did write the letter of the same date, as is said in the memorial, wherein was that expression, that it was a wonder to all seamen that a Flag should be sent in a single ship to find out his squadron.

Answer.—I could not tell where to seek my squadron, neither from the Admiralty nor by any other directions they had given me.

23 June.—The next thing mentioned is my letter of the 23 June, which, by mistake, is said to be dated the 22nd.

I desire the said letter of the 23 may be read, to show that I took the best care I could to obey orders.

The 24 June they say the *Crown* was ordered to join me in the Soundings.

Answer.—The *Crown* never joined me at all, nor the *Weymouth* till at Milford.

Their Lordships make mention of my letters of the 26 and 28 June.

I desire the said letters may be read, which will show I used all the diligence I could in getting from Plymouth, and for securing of the trade in the best manner I was then able.

6 July.—They say that, after my letter of the 28 June, they had no account from me till 6 July.

Answer.—I had no opportunity of writing sooner, and desire my said letter may be read, to show how I was forced to run up and down to seek my squadron.

9 July.—Their Lordships take notice of the extract of a letter I sent them, from Capt. Cole to the Collector of the Customs at Kinsale, as also of my letter of the same date to their Lordships, wherein I give them an account of the Council of War I then called, and the result thereof, as also of the arrival of the Straits fleet at Kinsale the 8 July.

I desire that both my said letter of the 9 July, and the result of that Council of War, may be read, as also the copy of the extract of Capt. Cole's letter to the Collector of the Customs at Kinsale, by all which it will appear that it was impossible for my squadron to be in that station where I had any reason to expect to find them, and that it was the opinion of the Council of War, as well as my own, that it was advisable for me then to return to Plymouth for further orders. Besides, I thought it of service to convoy the Straits fleet, since, by the Council of War, my stay in the Soundings was not thought advisable.

10 July.—The next day after the date of my letter, viz. 10 July, they say that Capt. Cole arrived at Plymouth, &c., and gave an account to their Lordships that on the 2 July he was informed by the *Germoon* advice-boat that I was sailed to the westward, in order to take upon me the command of the

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squadron, and that on the 8 July he called the captains on board, who agreed 'twas best for the service to go to Plymouth, the ships being in want of repair as well as provisions. He gives an account also of his stations between the 2 and 8 July, &c.

Answer.—Although the stations mentioned in this letter of Capt. Cole to the Admiralty doth not speak his stations to be where I had reason to look for him, yet I have cause to doubt whether he was at that time in the stations there mentioned, by comparing my own journal therewith. But, if he were, it appears by his said letter that all the captains then with him were of opinion that they ought to go to Plymouth, by reason of their want both of repairs and provisions, insomuch that my joining them would have served only to have come back with them.

12 July.—Their Lordships mention an Order to Capt. Cole of 12 July to get ready some ships to join me in the Soundings, and say that on the 18th he sailed with four ships therein mentioned.

Answer.—Of these Orders to Capt. Cole, or of the time of his sailing from Plymouth, I know nothing.

17 July.—They say that the day before Capt. Cole sailed from Plymouth, viz. 17 July according to their computation, they sent me Orders, as by their memorial.

Answer.—These Orders did not come to me till 27 July, when I was at Milford, so that I could not put them in execution.

19 July.—Their Lordships mention two letters of mine, both dated the 19 July from Cork harbour, and that I gave an account in one of them of the news I had heard of the loss of an East Indian ship called the *Henry*, and the expectation of the arrival of another, and of my calling a Council of War upon that news.

Answer.—This shews the result of that Council of War, and the cause why I could spare no ships from me, by reason of the result of that Council, and here I desire that my letter to Lord Capel of the 20 July may be read, to show that I took the best care I could for their protection, after I was so tied up by the said Council of War.

The 20th July their Lordships mention an Order directed to me about the *Weymouth*.

Answer.—This Order came not to me till I was returned to Plymouth.

22 July.—Their Lordships mention a long Order of the 22 July, wherein they take notice of six East India ships which were suddenly expected.

Answer.—This is the first intimation which was given to me from the Admiralty about any East India ships, and I did not receive the said Order till I was returned to Plymouth by advice of the Council of War, as aforesaid.

25 July.—They also mention an Order of the 25 July, which came not to me till I was returned to Plymouth.

Answer.—This Order approves my conveying the Straits fleet within the Land's End, as had been the opinion of the Council of War before.

The 26th July their Lordships give an account of a mistake which happened, by taking the men of war which were with Capt. Cole, and the Merchant ships which were then in his Company, to be a squadron of French men of war.

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Answer.—This mistake occasioned my calling a Council of War, the result whereof was that I should go with the ships under my command, together with the Straits fleet, into Milford Haven for protection of the said merchant ships.

Note.—That the said mistake had been prevented if Capt. Cole would have permitted the *Rochester* to have borne down to us, being to windward of us, and clean, and was offered by the commander of the said ship *Rochester*, which none of us could do, being so far to leeward of the ships with Capt. Cole.

I desire my letter of the 23rd July, and of the result of the Council of War of the same date, may be read.

24 July.—Their Lordships make no mention of my letter of the 24th July.

This letter may be read, if your Lordships are so pleased.

27 July.—They mention an Order of 27 July.

I received the said Order at Milford, which also confirms the opinion of the Council of War of the 19 July.

28 July.—They mention my letter of the 28th July, which takes notice of Capt. Cole having stood off and on shore for several days without shewing any colours, as also my sending word at that time how the mistake of going into Milford might have been prevented by Capt. Cole.

I desire this letter may be read.

2 Aug.—Their Lordships take notice of a letter from me of the 2nd Aug. acquainting them that I had ordered the *Foresight* and *Rochester* to cruise off Cape Clear and the Blasquets till I joined them, or further order, and that I did believe the Lord Deputy would appoint the *Anglesey* to join them, I having written to his Excellency for that purpose.

Answer.—I sent these two ships upon a private intimation from an Officer in the Admiralty, although their Lordships were not pleased to give me any notice thereof from themselves, and I gave myself great hopes that they would be joined by the *Anglesey* upon a former letter I had written to the Lord Deputy, when I had heard of the loss of the *Henry* East India ship.

On the said 2nd Aug. they inform your Lordships that, pursuant to the directions of the Lords Justices, they sent me Orders at Milford to proceed from thence into the Soundings, and to leave the Cadiz ships to come from Milford with their proper convoy, &c.

Answer.—The date of this Order may occasion some mistake, being of the same date with my forementioned letter in the last paragraph [*see* previous answer of this date]; for I did not receive the said Order until the 6th of Augt., and did, by my letter of the 7th Augt., answer the said Order of the 2nd, shewing my readiness to obey the same, and I desire my said letter of the 7th may be read.

5 Aug.—Their Lordships mention their Order of the 5th Augt., directing me to come to Plymouth with the *Lenox* and *Hawk* fireships, and to send the rest of the ships of my squadron into the Soundings to cruise under the command of Capt. Cole, and give for reason that there was not a sufficient number together to accompany a Flag.

Answer.—At this time I had a better squadron to have done service withal, having with me a fireship more than I had at my first going out, and knowing certainly where to find the *Rupert*, *Foresight*, and *Rochester*; besides that their

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Lordships, at that time, knew that by their Order the *Stirling Castle* and *Portland* were cruising in the same station where I had then sent the *Foresight* and *Rochester*, whereby the squadron would have been stronger than at any time before, and yet this time was taken, not only to call me from that service, under pretence that there were not ships enough to accompany a Flag, but to send Capt. Cole into the Soundings, who, instead of going directly into that station, went to Mount's Bay, contrary to order, and whom, by the experience of his former miscarriages, their Lordships had no reason to have trusted on a service of such importance, and especially after having been directed by a late Order of their Lordships to be tried at a Court Martial (for his miscarriages), which was then depending and not executed.

Their Lordships take no notice of my letter of the 8th August, wherein I desired to be called to a Court Martial, and which I desire may be read.

The next paragraph in their memorial relates to the East India Company's receiving advice concerning Mons. Nesmond's sailing from Brest, with six men of war and two fire-ships, with design to intercept the English and Dutch East India ships expected home, and their desire to have a further strength appointed to cruise in the Soundings.

Answer.—I was then discharged from my command, & am no further concerned with anything contained in the said memorial.

After my arrival at London, I did again several times apply myself to the Admiralty, desiring to be tried by a Court Martial, conceiving great injury to have been done me by their proceedings, but was answered by some of them that they wondered why I should desire to be tried by Court Martial, when they knew no reason for it. But, pressing still for a trial, I was answered by some of them that, when that Board thought fit to call any one to a Court Martial, they would do it without any application to them. Being unsatisfied with such answers, by reason of the false reports which had been spread of me upon this occasion, I acquainted his Majesty with the hardship I lay under in undergoing such censures and not being able to procure any public vindication.

Signed 'Carmarthen.'

[Laid before the Committee by L. Kiveton this day. Com. Book. *See* Notes III. above, pages 69 to 74.]

(u^2) 11 Jan. 1695–6.—Copies of letters sent by the Marquess of Carmarthen to the Lords of the Admiralty from 14 June to 17 August 1695.

No. 1. 14 June, *Lenox*, Spithead. Ship is now unmooring. Will do his best to carry out orders of Admiralty.

No. 2. 17 June, Plymouth Sound. My Lords, Just before my departure from Spithead I spoke with Capt. Hubbard, expecting to be informed where it was most probable to find the squadron in the Soundings, but understood by him that Capt. Cole's Orders was so large that he was at liberty to proceed as he thought most convenient, which made it so difficult for me to find him that [it] caused me to touch at this port, in hopes I might obtain some more certain intelligence of him. I was also informed at Spithead that the *Weymouth* was here; and she being one of the ships that your Lordships, when I last saw you,

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gave me hopes should be joined to my squadron was also another reason for my calling in here, in expectation that she might have received her orders accordingly, and that I might have taken her along with me; but, on the contrary, I find the *Weymouth*, instead of going on this expedition, which is of great consequence, and which she is very fit for, is ordered only to attend the Fishery off Rye &c., which service, with submission to your Lordships' better judgment, a much heavier sailer would perform as well; for, Capt. Cole's station being so very uncertain, and finding the *Lenox* sail so extremely ill, unless I have some nimble frigates to look upon any number of ships we may meet, it is equal that, endeavouring to find Capt. Cole, I may happen so near a French squadron, before I can make what they are, as may make it impossible for me to get off again. Since my coming here I am informed that the Marquis de Nesmond is at the chops of our Channel with seven sail of clean ships of good force, and, if that be true, I cannot see, without running the greatest risk in the world, how I can go with this heavy sailing ship alone to join the rest of my squadron; and I cannot but take notice to your Lordships that I am the first Flag that ever was sent towards an enemy in such a manner, and your Lordships is the first Admiralty that ever hazarded a Flag so, if I meet with no other assistance. But, the wind being now come to S.W., and if it should continue so, will hinder me from proceeding till another opportunity of wind, and, if it be possible for me to receive your Lordships' answer before it changes, I should hope you would permit my further stay here till I am joined with at least one light frigate more to accompany me. But, if I receive not your Lordships' answer before the wind does change, I shall not fail to use my speedy endeavours to find out my squadron according to your Orders, whatever the consequence be, though it is a strange errand for a Flag to be sent on, to look for his squadron without any certain directions where to find them. I have already acquainted your Lordships with the misfortunes I expect will attend the service by the miscarriage of the squadron which are appointed to be under my command, unless three or four clean frigates for scouts are adjoined, that we may not be on a sudden surprised by too strong a force for us to deal with, and too clean ships for us to get away from if we should be so unfortunate as to be forced to make use of our heels, which I do assure your Lordships shall not be done, whilst I have the honour to command, till reduced to the last extremity. I don't question but your Lordships will consider what a considerable part of the remaining English sea force would be wanting if we should be cut off, or any other way separated from joining my Lord Berkeley, and there should be occasion for us; though by ourselves we are but a weak squadron, considering our station. Therefore, it being my opinion always to provide against the worst, and having been informed that the French have called in their privateers from Toulon to Brest, which gives me reason to believe they design to make some attempt in our Channel this summer, I cannot but once more remind your Lordships of the misfortune I think is most likely to fall on this squadron, and also on the hardships you are pleased to put upon me in this service, that, if we should unfortunately miscarry, it may not lie at my door, having

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acquainted your Lordships of the ill consequence that will most probably happen upon these proceedings. If your Lordships can give me any certain account how I shall find out Capt. Cole, I should be glad you would speedily do it, that I may not be too long wandering in the great compass of the Soundings to no purpose, as also your answer to this letter will very much oblige, &c. P.S. Since my writing this, though I thought not to have come into the Sound, yet it has blown so hard that, as well those ships that were bound eastward under the convoy of the *Smyrna Factor*, as also those that were bound westward, were forced to return hither. Here is also arrived a fleet of colliers under the convoy of the *Joseph* and *Jolly prize*. [Read 13 Jan. before the Committee. *See* Notes III. above, pages 69 and 70.]

No. 3. 21 June, Plymouth Sound. Has been detained by contrary winds, but will sail now at the first opportunity, his galley having arrived. Has detained the *Rupert* and *Foresight*, ordered to cruise between the Start and Scilly, for twenty-four hours, hoping they may be ordered to join him, after which he will not delay to endeavour to find the ships designed for him, though both to seamen and all other it is a wonder that a Flag should be sent alone to look for his squadron. Has received the Orders about the *Lichfield*, and accordingly got under weigh with the *Rupert* and *Foresight*, but had to stand into shore again to send his galley for news from the Admiralty. Will dismiss these two ships if he gets no Orders about them. Glad the *Lichfield* is to be cleaned, but, unless he gets some other ship in her stead, there is nothing that sails tolerably in his squadron.

No. 4. 23 June, Plymouth Sound. Has received the Admiralty's satisfactory Orders, and is glad he detained the *Rupert* and *Foresight*. Will now sail, but would have had to put back if he had sailed before. Doubts not he will now be able to give a very good account of his proceedings. P.S. Has seen an Order sent to Commissioner St. Lo interfering with that sent to him for the *Lichfield* to convoy the *Katherine* storeship to Ireland, but has taken her with him, and will convoy her into Cork harbour. With great difficulty had French colours provided for the *Rupert* and *Foresight*, and paid £25 for a suit for the *Lenox*. Desires to be repaid, and that the rest of his squadron may be furnished with them, for it is a wonder to him that colours of that kind should not always be provided for any cruising squadron.

No. 5. 26 June, *Lenox*, Plymouth Sound. Has just got under sail with a N.W. wind, though he fears it will back again to S.W. Will cruise between 20 and 30 leagues W.S.W. from Scilly, and between that and Cape Clear, but often off Cape Clear, in hopes of meeting the East Indiamen. Will also have an eye towards Brest, and, when he can spare his galley and a clean frigate, will let them look into Broad Sound; and his galley shall sometimes look into Brest water and report what is there or in Camarett Bay. As soon as he joins his squadron he will appoint a foul ship to convoy the *Katherine* and a ketch that lies off St. Michael's Mount.

No. 6. 28 June, Plymouth Sound. Has been driven back by wind and thick weather, but is now getting up anchor in order to proceed. Having been importuned by the Master of a merchant

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ship now lying in Torbay, he has sent the *Germoon* and his galley to convoy her and several other ships hither, the Dutch man of war that had convoyed them thither having no further power. Hopes their Lordships will not be angry. Sees now some vessels coming about the Mewstone, which he believes to be those above mentioned.

No. 7. 6 July, off Kinsale. Has been cruising off Scilly, between 20 and 40 leagues round, and from S. to W. of Cape Clear, 15 or 20 leagues from it, but has neither seen nor heard of his squadron. Has stood in to the Old Head of Kinsale for news. If it is not in Cork Harbour, he will look for it 60 or 80 leagues or more between S. & W. from Cape Clear; but, if it is gone to England, he will return to Plymouth, as he hopes their Lordships will not think it proper for a Flag to cruise with only two ships besides his own, slow and very foul. On Monday last saw three French privateers of about 20 guns off Scilly, and gave chase. The *Bridget* Galley engaged one for two hours, but finding her too big, left her at nightfall, as he could get no assistance. The *Foresight* got near another, which threw all her lumber and several carriages overboard and went away before the wind, and, night coming on, also got away. Saw another on Wednesday, but could not come near. His arrival has pretty well cleared that station of privateers. Saw one New England ship going into Falmouth.

No. 8. Extract of a letter from Capt. Cole to the Collector of Kinsale, dated from aboard H.M.S. *Dreadnought*, 18 June. Sir, I received yours bearing date the 10th of June, wherein you acquaint me of one Noble Smith with three privateers more came the last night before Cross Haven, a place which I cannot pretend to come to, my time of cruising being out in these parts two or three days ago, which has been occasioned by contrary winds and calms. But if it should so happen that the wind will permit and without loss of time to my former station, which is in the Soundings, I will endeavour to take a range that way.

No. 9. At a Council of War held on board H.M.S. *Lenox* in Kinsale Harbour, 7 July, present M. Carmarthen, President, Capts. Christopher Myngs, Tho: Dilkes, and Hovenden Walker. Whereas, having sufficiently beaten the most proper stations off Scilly and Cape Clear for finding Capt. Cole and H.M. ships with him, and arriving at Kinsale, by the best information we gain here judge that he is gone for England. It is therefore the opinion of the Council of War that the Rt. Hon. the M. Carmarthen proceed, with the ships under his command, for Plymouth, in order to his receiving such directions as the Lords of the Admiralty shall think most conducing to the service.

No. 10. 9 July, *Lenox*, Kinsale Harbour. Having had news from the Governor of Kinsale agreeing with the above extract from Cole's letter of 18 June, came into Kinsale Harbour to give the two ships with him a pair of boothosetops, and called a Council of War, the result of which is enclosed, having therein also the advice of Capt. Whetstone and Capt. Owen, whom he found here with their ships. Yesterday 80 or 100 sail from the Straits arrived under the convoy of the *Devonshire*, *Mary*, and *Berkeley Castle*, two Ostenders, and two

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Hamburghers. They had crossed his station and seen nothing of Capt. Cole. Is thus confirmed in his opinion that Cole is gone to England, and thinks it best to accompany the fleet as far as Plymouth, as it is dangerous to let it go on with so slender a convoy. After which, would be glad to join his squadron and carry out his orders. Desires answers both at Plymouth and at Kinsale, and hopes this will always be thought a place most requisite for any squadron in the Soundings to enquire for intelligence.

No. 11. 19 July, Cork Harbour. Sailed on the 15th with the fleet, but was driven back by the wind. Is now unmooring. On the application of Capt. Owen of the *Roebuck* at Kinsale who wanted a lieutenant, has caused Mr. Justinian Miller, a midshipman in the Navy almost four years, two on board the *Royal William*, and now a volunteer with him, to be examined and appointed, and begs the appointment may be confirmed. P.S. The wind has come to the southward, so he cannot yet sail.

No. 12. 19 July, Cork Harbour. Immediately after sending away his letter, heard of the unfortunate loss of one East India ship, and of the expectation of another. Fearing lest by sending to give assistance to the trade one way he might backward it another, he called a Council of War, and sends the result.

No. 13. At a Council of War held on board H.M.S. *Lenox* in Cork Harbour, 19 July, present M. Carmarthen, President, Capts. Christopher Myngs, Tho: Dilkes, Hen. Haughton, John Jennings, Wm. Whetstone, Wm. Beawes. A letter being produced giving an account of the unfortunate loss of the *Henry* East Indiaman, and the daily expectation of the *Edward* East Indiaman, it was proposed whether one or two men of war might be spared from the Marquess of Carmarthen (in consideration of the convoy now under his care) to cruise off Cape Clear and to the westward of it, for meeting with the said ship *Edward*, or any others that may fall in that way. It is the opinion of this Council of War that the Marquess of Carmarthen do not part from any one man of war until the fleet from Cadiz now under his convoy be seen safe within the Lizard.

No. 14. From M. Carmarthen to Lord Capel, dated 20 July, *Lenox*, Cork Harbour. Sends him result of Council of War. Was himself of opinion that a ship or two should be forthwith sent to cruise off the coast of Kerry, in order to meet the *Edward* or any others, that being a place that a great part of our trade generally fall in with, and as little attended with our men of war. But his hands were tied by the Council of War. As soon as he can get within the Lizard, intends to send the *Foresight*, Capt. Walker, back to Kinsale, and proposes that Lord Capell should order the *Anglesey*, now at Kinsale, to join Capt. Walker and cruise under his orders at the aforesaid station until the writer returns to this coast, which he hopes will be very soon; when he would furnish a cruiser for that station if L. Capell would furnish another, which would be enough to secure the trade thereabouts, because for their better protection he will often look in there with his whole squadron. P.S. Since the loss of the *Henry*, above 100 of her able seamen may be straggling; therefore begs L. Capell to give

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orders to take up as many as possible for his squadron, in which several ships are so very ill manned as cannot be imagined, some of the 70 gun ships not having above half their complement. Is already assured of the assistance of the Governors of Cork & Kinsale. The King allows 20*s.* to every man that takes up and secures an able seaman for service on board a king's ship. Wishes this extended to this country. Will see it punctually performed for as many men as shall be produced for his squadron.

No. 15. To the Admiralty. 23 July, *Lenox*, off the Land's End. Sends result of Council of War called on discovering 18 sail of ships supposed to be French men of war, having no reason to believe there can be such a squadron of English ships in the Channel. When he gets to Milford, he will take care to make such an additional defence, by taking guns out of the merchantmen and placing them ashore, as may be sufficient to secure the fleet, if they follow and make any attempt upon it, which he has reason to believe they may, seeing they give chase and are not above 5 leagues off. Hopes his squadron may be ordered to reinforce him. Knows not as yet where they are. P.S. There is nothing done in Ireland but what the French have immediately intelligence of by the correspondence of their privateers, which confirms his opinion that these ships are French, and were waiting purposely for him; and, if they are French, he hopes the Admiralty will consider that the Turkey and West India fleets are expected home, and therefore appoint a sufficient number of ships to disappoint the enemy's design.

No. 16. At a Council of War held on board H.M.S. *Lenox* at sea, 23 July, the Lizard bearing S.E. by E. 4 miles distant at 12 at noon; present M. Carmarthen, President, Capts. Christopher Myngs, Tho: Dilks, Hen: Haughton, John Jennings, Hovenden Walker, Wm. Beawes. Upon intelligence sent to us by Mr. Jones, Deputy Vice Admiral of the west part of Cornwall, that since Thursday last 17 sail of great ships has been often seen plying off Mount's Bay and the Lizard, together with an affidavit made at Cork by a man that was taken out of a French privateer commanded by one Welsh, and several other concurrent intelligences (from privateers and others that have been taken) of a French squadron of at least 20 sail of line of battle ships that would in a very short time be ready to sail from Brest, with many other accounts to the same purpose in Ireland, and we (the Land's End bearing S.E. by E. of us 4 m. distant) now having sight of 18 sail to the south-westward of us, we cannot but believe they are that French squadron of which we have been so often informed. Therefore, upon its being proposed what was best to be done in consideration that the wind is westerly, and these ships right to windward of us, and all the ships now with us being very foul and heavy sailers, so as we cannot possibly fetch into Falmouth before they would certainly fall in with us, it is the opinion of this Council of War (*nemine contradicente*) that we make the best of our way with the merchantmen under our convoy for Milford, for the better security of the fleet, till further intelligence or our being reinforced.

No. 17. 24 July, Milford Haven. Has lost sight of the suspected ships, and has reached Milford with sixty odd

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merchantmen, and all the men of war except the *Gloucester*, which was bringing a rich ship from Youghal. Yesterday about 16 of the merchantmen tacked after the two Ostend men of war. Hopes they may get by the strange fleet. Will survey the harbour tomorrow to provide against attack; for, though it is a fine harbour, yet it is so open and wide that he cannot as yet see any place ashore whence the enemy could be annoyed. If their Lordships find these ships are French men of war, is sure they will be of opinion that a small force will be sufficient to protect the bomb vessels in the Channel, for they cannot at this time send too great a force to the mouth of it. The French cannot want force enough to give us disturbance in these parts, nor will they lose any opportunity, as the situation of Brest gives them the advantage of frequent information as to our force. As he can secure the merchantmen here, doubts whether he should not, with all the men of war except the *Berkeley Castle*, make the best of his way to Plymouth to join any fleet sent out to these parts, which ought to be more looked after than any other, considering the daily expectation of our homeward bound trade and their convoy. Awaits orders.

No. 18. 28 July, Milford Haven. Last night the *Dreadnought*, *Rochester*, and *Hawk* fireship came in and reported that the suspected squadron was only Capt. Cole, with some merchantmen outward bound, in all 18 sail, which had stood off and on shore several days without showing any colours, which caused them to be suspected. Hopes their Lordships cannot be angry at the care of the Council of War for the preservation of so great a fleet. Will take the fleet to Plymouth, and leave them there to go on with their own convoy. Will then take his own ships now being cleaned, and proceed with them to the Soundings. Acknowledges receipt of Orders of 12, 15 and 17 inst. by the *Dreadnought*, together with a Commission for a Court Martial to examine into a matter relating to the *Portland's* chasing.

No. 19. 2 Aug., Milford Haven. Still waiting for a wind. H.M. hired ship the *Prince of Orange* has come in from Virginia, having seen part of that convoy safe into the Bristol Channel. Has ordered the *Foresight* and *Rochester* to cruise off Cape Clear and the Blasquets, and believes the Lord Deputy of Ireland will order the *Anglesey* to join them.

No. 20. 7 Aug., Milford Haven. Has received Orders of 2 inst. and distributed them to the Straits fleet and the *Prince of Orange*. Will proceed to the Soundings when the wind serves. Could not have got out before, as the wind has been blowing hurricanes, except on the 2nd, when there was a slatch which enabled the ships already reported to get out. His rendezvous will be 20 or 30 leagues between S. and W. from Scilly, or the same distance from Cape Clear, and he will send into Kinsale and Plymouth for orders from time to time.

No. 21. 8 Aug., Milford Haven. My Lords, Just as I was getting under sail in pursuance of your Lordships' Orders of the 2nd inst., I received your later Orders of the 5th, according to which I shall not fail with a great deal of willingness to proceed, though it seems a little to confirm the truth of a report, which some [of] my friends have informed me is in London, that your Lordships are so displeased with my proceedings since you have honoured me with the command of this squadron, that

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you have designed to call me home in order to send Admiral Hopson in my room ; and, though I must confess several unfortunate accidents have happened since my departure from England, yet I am so very well assured that what I have done does not deserve the ill character which I hear your Lordships have given me. And, if so, I desire your Lordships will do me the justice to let me be called to a Court Martial, that I may justify my proceedings, and not lie under the censure of those people who know nothing of the reason thereof. I must confess I am very much surprised at the reason your Lordships give for calling me home, when at my coming out you thought a lesser number of ships than I have now was sufficient to accompany me as a Flag, which gives me great reason to believe the aforesaid report. Therefore I cannot but again earnestly desire to be called to account for my proceedings, it being the only way for the truth thereof to be known, and a piece of justice I hope your Lordships will not deny anybody, and I shall take it as the greatest obligation you can lay upon Yrs. &c.

No. 22. 12 Aug., Plymouth Sound. Sailed on the 8th from Milford with the Straits fleet, and anchored this day with the *Lenox* and *Hawk* fireship, which he has ordered to be cleaned, and then to proceed, according to Orders of 5th. Has left the fleet to proceed up Channel. "Having received several abuses and affronts from Capt. Cole, Commander of the *Dreadnought*, for which at first (upon his writing a submissive letter to me, a copy of which I hereby send your Lordships) I was inclinable to forgive him ; but since that he continues to be [so] very stubborn, unmannerly, and disobedient to order, that I cannot but acquaint your Lordships therewith, and desire you will do me the justice to have the matter inquired into at a Court Martial ; and, that your Lordships may be something better informed of the particulars, I have also herewith sent you copies of the depositions of Capts. Jennings and Jumper, who were present at his first abuse and disobedience. I am also further to let your Lordships know that, in pursuance to your Orders of the 5th, I gave Capt. Cole mine, a copy whereof you will also find here, and on the 10th in the evening, after having sent for Capt. Cole, who would not come to me, I went on board him to acquaint him with your said Orders, and to tell him it was not in my power to order any more ships with him, the rest being already appointed on other service, but that I was to send the *Lenox* and *Hawk* fireship after him as soon as they were cleaned and ready." Adds that, wishing to keep him a little longer with him, as he feared it would come on to blow hard, he ordered him not to part company without a signal ; but he did so at 12 at night, which is another part of his disobedience. Notwithstanding their Lordships' Orders for his coming up to town, he will remain here in case they may have any further commands for him before he leaves. He repeats his desire for a Court Martial on Cole. "I'll suffer if I dont prove him a knave, a coward, and a fool."

No. 23. 17 Aug., Plymouth. "My Lords, I received your Lordships' letters of the 14th, and with the first conveniency design to set out of this place in order to come to town ; and, in answer to that part of your letter relating to my not trying Capt. Cole, though a Court Martial was called, your Lordships will find with my last a copy of his submissive letter, upon

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which I forgave him; however, though that was not the only reason of the designed Court Martial, yet the wind with which I got under sail happening fair that morning occasioned it being put by; but, since he has been so ungrateful, and as by the copies of what I have already sent your Lordships I hope you find there is sufficient reason for bringing him to a Court Martial, if I dont prove him to be what I have before pretended I will very willingly be punished for him." Has dismissed the Gunner, Boatswain and Carpenter of the *Hawk* fireship, for neglect of duty, and replaced them by others; and has given directions to Commissioner St. Lo for a survey of their stores. [Laid before the Committee by L. Kiveton this day. Read repeatedly. Com. Book. *See* Notes III. and IV. above, pages 69 to 75.]

(u^3) 11 Jan. 1695-6.—A Journal of the proceedings of the Right Hon. the Marquess of Carmarthen in H.M. *Lenox* in the Soundings, between 14 June and 18 August 1695. Its contents are for the most part reported in preceding letters. It adds thereto that on 14 July he wrote to the Admiralty to report the *Devonshire's* blowing up. On 25 July he ordered the *Devonshire's* tender to be manned with 50 men and armed, to look for a French shallop, which had taken several merchantmen; she brought her in on 27th, on which date also appears an entry of the receipt of Order of 12th to examine at a Court Martial the reason why the Captain of the *Portland* was, once by Capt. Cole and once by Capt. Maine, called off from chase, with an extract of the Captain's Journal enclosed. On 30 July sent the French prisoners to Pembroke. On 17 Aug. there is a note that, though the Admiralty take notice of Cole's abusing him, they say not a word of his disobedience in leaving the fleet. [Laid before the Committee by L. Kiveton this day. Com. Book. See Note III. above, p. 69.]

(v) 14 Jan. 1695–6.—Copies of the Orders under which Capt. Cole and Capt. Hubbard cruised in the Soundings at the time M. Carmarthen was to join them.

(1) Order to Capt. Cole, dated 22 April 1695, to take the *Dorsetshire*, *Elizabeth*, *Lichfield*, *Captain*, *Weymouth*, *Kingfisher*, and *Hawk* and *Owner's Love* fireships, and cruise to the Soundings for twenty days in company with such Dutch ships as may be ordered to join him, to meet fleets of merchantmen from the Canaries and from Portugal and convoy them to the Lizard.

(2) Order to Capt. Hubbard, of the *Dorsetshire*, at Plymouth, dated 22 April, to the same effect; but, if he meets Capt. Cole in the *Dreadnought*, he is to put himself under Cole's command.

(3) Similar Order to Capt. Hubbard, addressed to the Downs.

(4) Order to Capt. Cole, dated 20 May 1695, to take the *Kent* and *Stirling Castle*, in addition to the *Captain*, *Lichfield* and the two fireships, if at Plymouth, and to cruise forty days in the Soundings, to meet the Portugal fleet and convoy it to the Lizard; and to send back the *Dorsetshire* and *Elizabeth* to the Downs, and the *Weymouth* to Plymouth to be cleaned. [Produced at the Committee this day, pursuant to Order of 13 Jan., and read on 14 and 15. Com. Book. *See* Notes III. above, pages 70 and 71.]

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(*w*) 15 Jan. 1695–6.—Letter from Mr. Burchett to M. Carmarthen. My Lord, there being a necessity for the *Lenox* to be in the Soundings as soon as possibly may be, my Lords of the Admiralty have this night sent Orders to her Commander to proceed thither in forty-eight hours after his receipt thereof, and their Lordships command me to send you the enclosed copy of the said Order, for your Lordship's information therein. *Signed* J. Burchett. *Dated* Admiralty, 10 June 1695. [Read this day before the Committee. Com. Book. *See* Notes III. above, page 72.]

(*x*) 21 Jan. 1695–6.—Admiralty Order to M. Carmarthen. Whereas several ships appointed to be under his orders are now disposed of on several stations, so that there will not be a sufficient number together to accompany a Flag, he is directed, as soon as he arrives off the Land's End with the Cadiz ships, to send back to the Soundings, under Capt Cole's orders, all the men of war with him, but the *Lenox* and *Hawk* fireship, which he is to bring to Plymouth to be cleaned; after which they are to join the others in the Soundings, and he himself is to repair to town. *Signed* as other Admiralty Papers (but not by Russell), and *dated* Admiralty Office, 5 Aug. 1695. [Read this day and on 22 Jan. before the Committee. Com. Book. *See* Notes III. above, page 73.]

(*y*) 22 Jan. 1695–6.—Copy of Admiralty Order to M. Carmarthen. Whereas information had been given to the Admiralty by the Commander of H.M.S. *Portland* that during his being in the Soundings he chased some ships, and, upon his coming up with them, was once called off by Capt. Cole; and another time by Capt. Main of H.M.S. *Kent*, a more particular account of which is annexed, M. Carmarthen is directed to hold a Court Martial to enquire into the matter. *Signed* John Lowther, Henry Priestman, Robt. Rich, Geo. Rook, John Houblon. By command of the Comms., J. Burchett. *Dated* Admiralty Office, 12 July 1695. [Read this day before the Committee. Com. Book. *See* Notes III. above, page 73.]

(*z*) 7 Feb. 1695–6.—Extract of Journal of Capt. Wm. Smith, Commander of the *Portland*. On 4 June 1695, at 11 a.m., espied a sail, and gave chase till 2 p.m., when the Commodore made a signal to give over, though Smith had raised the hull. On 15 June, about 10 a.m., gave chase to what looked like a sail, but was only a white cliff. The *Kent* signalling a sail to windward, all the fleet gave chase till 5 p.m., when all except the *Kent* and *Portland* left off. About 8 p.m. the chase ran up French colours and opened fire, but beyond the range of the *Portland's* guns. At 9 p.m. the *Kent*, which was a league astern, and pursued by a lusty ship, brought to, and fired a gun for the *Portland* to do so also. The chase being one of near 60 guns, the *Portland* left him and went to the assistance of the *Kent*. At 11 p.m. sent on board the *Kent* to ask why he had been ordered to give up the chase, and to say it was his opinion still to pursue him; but Capt. Main answered that there were two great ships to windward of him, and he could not fight them without help. *Portland* therefore lay close by him all night. [Delivered in and read this day. Com. Book. *See* Notes IV. above, page 74. Referred to in preceding paper.]

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(*a a*) 23 Jan. 1695–6.—Letter from Mr. Burchett, of the Admiralty, to M. Carmarthen. My Lord, I am sorry your Lordship had the misfortune to miss the ships which were put under your command in the Soundings ; but I hope they'll return time enough to you to prevent any inconvenience from the enemy's ships which are or may come out from Brest. Before this comes, I suppose your Lordship will have advice that my Lord Berkeley has bombarded St. Malo and Granville, the latter of which towns is totally destroyed. They are now going to Dunkirk, and the worthy Engineer, Mr. Musters, threatens that place very much with his machines. God send he may make his words good, and that we may have good success against that place and Calais, which I suppose will also be attempted. We have yet no news from Mr. Russell, but 'tis generally thought that he has, ere this, bombarded Marseilles, and he puts the towns between Toulon and that place into great confusion by the constant motion of the Fleet. Some East India merchants attended the Board this morning, and say they suddenly expect 6 rich ships home from thence ; but I only give your Lordship this notice thereof as from myself, knowing that you will take the necessary care for their security upon their coming into the Soundings. There is no other news than what is in the Printed Papers, and herewith your Lordship will receive the Gazette, to which I refer you ; and, with hearty wishes for your good success, I remain, my Lord, your Lordship's obedient humble servant, J. Burchett. Dated Admiralty Office, 18 July 1695. [Produced this day before the Committee. Com. Book. *See* Notes III. above, page 73.]

(*a b*) 6 Feb. 1695–6.—Notes taken at the Committee by the Clerk, so far as relates to the L. Kiveton. They are almost *verbatim* the entries in the Com. Book from 11 Jan. to 23 Jan. inclusive (*see* Notes III. above, pages 69 to 73) drawn up with a view to reporting this branch of the subject this day, omitting the evidence of Billop. L. J., XV. 662. Com. Book, 23, 24 Jan. and 1 Feb.

(*a c*) 7 Feb. 1695–6. Copy of letter from the Admiralty to M. Carmarthen. Have received his letter of 12 Aug. from Plymouth. "We have considered of what you write touching the abuses and affronts you have received from Capt. Cole, Commander of the *Dreadnought*, together with the several papers relating to that matter, by which it appearing to us that you did appoint another to command the ship, and confine the said Capt. Cole in order to his being tried at a Court Martial which your Lordship had appointed to examine the matter, we desire you will let us know whether he has been tried, and, if so, that you will transmit to us the determination of the Court Martial. But, if he has not been so tried, we have determined it shall be done as soon as conveniently may be ; and in the meantime we desire your Lordship will let us know how he came to be admitted to the command of his ship after your Lordship had suspended him therefrom, and put him under confinement." With regard to his remaining at Plymouth for further orders, they repeat that, his ships being disposed of, there is no further occasion for a Flag officer to command them, and he is at liberty to come to town when he thinks fit. *Signed* John Lowther, Hen: Priestman, Robert Austen, Robt.

1695. — No. 959.

Rich, Geo: Rook. *Dated* Admiralty Offiee, 14 Aug. 1695. [Read this day before the Committee. Com. Book. *See* Notes IV. abovc, page 74.]

(*a d*) 7 Feb. 1695-6.—Copy of letter from Capt. Cole to the Admiralty. On Friday the 2nd inst., being on board of H.M.S. *Dreadnought*, where their Lordships were pleased to give me the honour to eommand, and entertaining of Esqre. Middleton and some of his family, together with several of the gentlemen of the country, from whom I had rceeived great civility, my Lord Marquess of Carmarthen camc on board, and with him Capt. Jennings, about 9 of the elock in the evening, and went away very well pleased, to my thinking, and satisfied with every thing; and at one his Lordship was pleased to come on board again, and at two went away again, and was gotten into his boat, and Capt. Jennings going over the side (as the officers who attended upon deck gave me an aeeount), Capt. Jennings should say something lewd, that my Lord Marquess was affronted; upon which I begged of Capt. Jennings to let me know which way it should happen, but he would give me no answer but what seemed to be in anger; upon whieh my Lord Marquess was pleased to eome in again, and, I being then in the eabin talking with some of the gentlemen, he took hold of me, and said to me "You dog, I will have you out." Upon whieh I replied "My Lord, I will go with you where you please"; and, going into the steerage, he was pleased to eall me as many rogues and villains as he thought fit, and oftentimes punehing me on the breast and pulling me by the eheeks, from that place into the waist, where he eontinued doing the same, at which time I only desired to know his reason for using me so in the ship where I commanded; and I do suppose, if he had had his bayonet, whieh he often ealled for, I should not have had breath enough to havc given this aceount. Afterwards he was pleased to eonfine me to the First Lieutenant's cabin with two sentincls over me; and about 4 in the morning Capt. Wade came on board, by his Lordship's order, to take possession of the ship; and that evening I was sent aboard the *Berkeley Castle*, where I am a perfect stranger, but the Commander very eivil to me; and to remain a prisoner until his Lordship's further order, for what reason I know not. [I] cannot understand, by what enquiries I have made by most of the offieers in the ship, that I said any unmannerly thing to his Lordship but the forbidding his trumpeters to sound at that unseasonable time of the night, a thing I thought a Commander might havc done without being turned out and being used like a dog. I humbly make it my request to their Lordships that they might please to give their orders for the examining the officers of the *Dreadnought*, by which, and their Lordships' goodness, I hope to have justice done me. I was persuaded by some gentlemen to make my submission to my Lord Marquess, whieh I did, at whieh he was not satisfied, but sent me a letter by a gentleman belonging to the *Lenox*, whieh you will find amongst the enclosed; and, upon receiving that letter, not knowing what he intended to do with me, and in regard of my health, and being under great affliction at that time, I made a further submission. At six yesterday my signal was made on board of the Flag, and I, not being in a condition to go on

1695. — No. 959.

board, having not been out of my cabin since my last being on board the *Dreadnought*, I sent my First Lieutenant on board to know the occasion, who was threatened by many hard words, and did not return till between 7 and 8 ; at which time my Lord Marquess came on board, and was pleased to use me with all the ill language that any gentleman could think of and threatenings. On the 6th inst., being then a prisoner aboard the *Berkeley Castle*, at which time I was giving you the account on the other side, but my Lord Marquess did take the pains to send a man 40 miles after the Post to intercept my letters. I think to continue between the Land's End and Mount's Bay, expecting the *Rupert* from Bristol, which I do suppose has orders to come this way. Part of the enclosed are copies of orders I received from my Lord Marquess. *Signed* as correct (by command of the Commissioners) by Wm. Bridgeman. *Dated* on board the *Dreadnought*, at sea between the Land's End and Mount's Bay, 11 Aug. 1695. [Read this day before the Committee. Com. Book. *See* Notes IV. above, page 75.]

(*a e*) 7 Feb. 1695–6.—Copy of letter from Capt. Cole to M. Carmarthen. May it please your Lordship, I have not been sensible till this day of any offence I had given your Lordship, nor did I believe, by the enquiries which I have made from several of the officers and some others which attended in the cabin the whole time, that I had any way offended your Lordship ; for I am sure I never had any such intention. But, finding myself condemned by people of a better quality, I humbly beg your Lordship's pardon, and remain the humblest of your Lordship's servants. *Signed* Tho : Coalle. *No date. Certified* as preceding. [Probably read before the Committee this day. Com. Book. *See* Notes IV. above, pages 74 and 75. Referred to in preceding paper.]

(*a f*) 7 Feb. 1695–6.—Copy of letter from M. Carmarthen to Capt. Cole. Sir, I am very sorry that any officer whom I have the honour to command should at any time give me reason to do anything that he himself should think a hardship done him by me, and I not be ready to show and do him all the justice imaginable ; but by your letter I find you have none of that good opinion of me, for if you had you would have wrote to me sooner, that you might (at least) have known what had been your offence from my mouth, and not trust to inferior officers and cabin boys, who could know nothing of the matter ; and, if they did, however, the least capable to judge of it, or advise you in it. But, since such are your advisers, and that you (by their opinion) may perhaps think that a submissive letter under your hand might fly in your face, I think fit to send this of yours back to you again, and I do assure you that I shall never make use of any dishonourable advantage against the worst of my enemies, and am very well satisfied that I have already shown too much good nature towards you, after such brutish usage, as few Flags else would have done, even such as I am certain would have made any sensible man (that is not of a brutish nature) have sent a much more submissive letter than what I have as yet received from you. So that I have given directions for a Court Martial tomorrow morning, at which I should be very glad to find you can give any good reasons for your proceedings. I am, in the mean time, your humble servant,

1695. — No. 959.

Carmarthen. What witnesses you think most convenient for your defence, Captain Wade, who is now the officer appointed at present to take the charge and command of the *Dreadnought*, is ordered to send them along with you to the Court Martial, which is to be at 11 o'clock tomorrow morning, at which time you are ordered to appear at the said Court Martial. Carmarthen. *Dated* on board the *Lenox*, Milford Haven, 6 Aug. 1695. *Certified* as preceding. [Probably read before the Committee this day. Com. Book. *See* Notes IV. above, pages 74–75. Referred to in Paper (*a d*).]

960. Dec. 7.—Writ of Summons (Bp. of Bristol).—Writ of Summons, dated 12 Oct. 1695, to John [Hall], Bp. of Bristol. [Took the oaths this day. L.J., XV. 607.]

961. Dec. 9.—Watkins *v.* Shatterden. Petition and Appeal of William Watkins, John Watkins, John Pugh, Samuel Watkins and divers others, poor kindred of William Pennoyer, Esq., deceased. Petitioners, being residuary legatees of William Pennoyer, brought a Bill against Thomas Shatterden Esqre., Thomas Trench and William Sedgwick, executors of Judith Davison deceased, relict and executrix of Michael Davison, deceased, one of Pennoyer's executors, for an account of about £1700 of Pennoyer's estate in their hands. Richard Loton, Esqre., Pennoyer's other executor, had accounted for the money in his hands. Davison's executors pleaded a Release given to Judith by Loton, and obtained a Decree, against which Petitioners appeal, as they were not parties to the Release. *Signed* by Wm., John, and Samuel Watkins and John Pugh, and *countersigned* Wm. Whitelocke, T. Powys. L.J., XV. 607. [At the Hearing, on 25 Jan. 1695–6, *Mr. Finch* and *Sir Thos. Powys* were heard for Appellants, and *Sir Bartholomew Shore* and *Mr. Filmer* for Respondents. Appeal dismissed. L.J., XV. 652 ; MS. Min.]

Annexed :—

(*a*) 27 Dec.—Answer of Thomas Shatterden, Esqre., Thomas Trench and Wm. Sedgwick, as above. Pennoyer made Loton and Davison his executors, and Samuel Crisp, Benjamin Andrews and Anthony Wilson supervisors, and John Davis, his servant, accountant to the executors. The Release, which was for £1200, was executed in presence of Samuel Crisp. *Signed* by Respondents, and *countersigned* P. Crawford. *Endorsed* as brought in this day. *See* L.J., XV. 652.

962. Dec. 9.—Hall *v.* Potter. Petition and Appeal of John Hall and John Keene, Esqres., executors of Tho: Thynne, Esq. deceased. Mr. Thynne gave George Potter a Bond of £1000 to pay £500 within ten days after Thynne married Lady Ogle. Potter got a verdict for the £1000, but Petitioners obtained a Decree in Chancery to set aside the Bond. Mrs. Jane Potter, Potter's administratrix, obtained a Decree reversing Petitioners' Decree with Costs. Appeal against this last Decree. *Signed* by Appellants, and *countersigned* Fra: Winnington, Wm. Dobyns. L.J., XV. 608. [At the Hearing on 11 Jan. 1695–6, *Sir Francis Winnington* and *Sir Thos : Powys* were heard for Appellants, the latter stating that Respondent was to promote and procure the match. *Mr. Serjeant Levinz* and *Mr. Finch* were heard for Respondent, the latter declaring that the Bond was given voluntarily. Decree reversed. L.J., XV. 638 ; MS. Min.]

1695. — No. 962.

Annexed :—

(*a*) 21 Dec.—Answer of Jane Potter, Widow. The Decree appealed from is just. *Signed* by Respondent, and *countersigned* Ja : Selby. *Endorsed* as brought in this day. MS. Min. *See* L. J., XV. 638.

963. Dec. 10. Writ of Summons (D. Bolton).—Writ of Summons, dated 12 Oct. 1695, to Charles, D. Bolton. [Took the oaths this day. L. J., XV. 608.]

964. Dec. 10.—King's Servant's Privilege (Killigrew). Petition of Henry Killigrew, Esqre., one of His Majesty's Gentlemen of the Privy Chamber in ordinary. Complains of having been arrested at the suit of Mrs. Ann Pope and imprisoned in Newgate, contrary to Privilege of Parliament, and prays to be released. [Read this day, and dismissed. L. J., XV. 609.]

965. Dec. 11. Writ of Summons (D. Newcastle).—Writ of Summons, dated 12 Oct. 1695, to John, D. Newcastle. [Took the oaths this day. L. J., XV. 609.]

966. Dec. 12. Powell's Estate Act.—Amended Draft of an Act for vesting several messuages and lands belonging to Samuel Powell, Esq., in trustees for payment of his debts. The Amendments are the insertion of the names of the trustees, and of words excluding taxes &c. from the rent-charge payable to Elizabeth Powell. No Amendments in the Commons. [Read 1ª this day ; Royal Assent 21 Jan. following. L. J., XV. 609, 647. 7 & 8 Will. III. c. 10 in Long Cal. *See* also Com. Book, 4 Jan. 1695–6.]

Annexed :—

(*a*) 4 Jan. 1695–6.—Lords' Amendments to the Bill. [Made in Select Committee and reported this day. Com. Book, and L. J., XV. 629.]

(*b*) 4 Jan.—Consents of Elizabeth Powell and her father and brother, Thomas, Lord Folliott and Henry Folliott, Esq. *Attested* as to the two Folliotts by Ro : Harley. [Produced in Committee this day. Com. Book.]

967. Dec. 14. E. Kent's Estate Act.—Amended draft of an Act to enable Anthony, Earl of Kent, and Henry Grey, his son and heir apparent, to make a jointure for Jemima, wife of the said Henry Grey. The Lords' Amendments are purely formal. No Amendments in the Commons. [Read 1ª this day ; Royal Assent 13 Feb. following. L. J., XV. 612, 668. 7 & 8 Will. III. c. 14 in Long Cal. *See* also Com. Book, 30 Dec.]

Annexed :—

(*a*) 30 Dec.—Letter from Mary, Countess of Kent, to E. Stamford, consenting to the Bill. [Read in Committee this day. Com. Book.]

(*b*) 30 Dec.—Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book.]

968. Dec. 16. Stoughton's Estate Act.—Draft of an Act for vesting the Estate late of Sir Nicholas Stoughton and Sir Lawrence Stoughton, Barts., deceased, in trustees to be sold for the payment of their debts and raising portions for the daughters of the said Sir Nicholas Stoughton. A saving clause on behalf of Dame Mary, late wife of Sir Lawrence, and now wife of Watkinson Payler, Esquire, was added by the Commons. [Read 1ª this day ; Royal Assent 13 Feb. following. L. J., XV. 614, 668. 7 & 8 Will. III. c. 16 in Long Cal. *See* also Com. Book, 23 Dec.

The entry in L. J., XV. 655 is wrong, as only one amendment was made by the Commons. The MS. Min. of 29 Jan. 1695–6 contain the entry of the Commons' Amendment being read and agreed to, which is wanting in L. J.]

Annexed :—

(*a*) 23 Dec.—Copy of above, signed by Anne Glyd, as consenting thereto, in presence of Willm. Brockman, Rich : Jewell, and Tho : Peyton, on Dec. 18. [Produced before the Committee this day. Com. Book.]

969. Dec. 16. Lady Katherine Fane's Estate Act.—Amended draft of an Act for enabling the Lady Katherine Fane to sell the reversion of certain fee farm rents given to her by her grandfather, John Bence, Esqre. The Amendment is purely clerical. No Amendments in the Commons. [Read 1ª this day ; Royal Assent 21 Jan. following. L. J., XV. 614, 647. 7 & 8 Will. III. c. 5 in Long Cal. *See* also Com. Book, 9 Jan. 1695–6.]

970. 16 Dec. Thornhill *v.* Clifton.—Petition and Appeal of Captain John Thornhill. In 1648 Robert Thirlby, Clerk, then Master or Rector of the Hospital of St. John-without-Blyth, Notts, and the Brethren of the said House, by consent of Sir Gervase Clifton, deceased, then patron of the Hospital, brother-in-law to Appellant's mother, who had her portion in consideration of the surrender of a former lease, demised to Appellant's father, John Thornhill, a messuage and lands, for the lives of Robert Clifton, Jane Clifton, and Millicent, the Appellant's mother, at a rent of 11*l.* 10*s.* 6*d.* Appellant's father entered and enjoyed the premises, and he and Appellant improved them greatly ; but the Respondent, Sarah Clifton, brought an Ejectment, pretending that the premises had been assigned by Appellant's father to Ayre and Pate in trust for himself for twelve years, and then to his wife, and to Robert and Jane Clifton for their lives, and that Sir Gervase, on Respondent's marriage with his son Robert, and in consideration of a portion of 3,000*l.*, had declared the premises to him. Sir Gervase had also left Jane 500*l.* additional portion on condition that she surrendered the premises to Robert. The pretended assignment by Appellant's father was made during the wars, and upon no consideration, and never left his custody until his death, when it was found among his papers by one Jenkins, a servant of Sir Gervase. Pate, the surviving trustee, had assigned the premises to Parkhurst, in trust for Respondent Sarah, being assured by one Foxcroft, her agent, that she had agreeed with Appellant. After the death of Sir Gervase and Robert Thirlby, Sir William Clifton became patron, and his chaplain, Clifford Thirlby, since deceased, Master or Rector. Appellant applied to Sir William for a new lease for his own life, and Sir William, being under age, gave him a promise that he would, when of age, make an exchange of Mrs. Pack's life for his, Mrs. Pack being Jane Clifton, the surviving life. Appellant gave up his old lease, and the new lease was drawn up ; and, on Sir Wm. going to France, and Appellant, who was his lieutenant, having been ordered by him to go to Landguard Fort, Sir William ordered his steward, Mr. Greaves, to take the lease to Clifford Thirlby to be sealed. Thirlby put off sealing the lease, and, after Sir Wm. and Mrs. Pack were dead, Respondent obtained a lease from Sir Gervase, and made the tenants attorn to her. Petitioner exhibited his Bill in Chancery, but it was dismissed. Appeals against the dismission. *Signed* by Appellant, and *countersigned* R. Thornhill, Tho : Stanley. L. J., XV. 614. [At the Hearing, on 10 Feb. 1695-6.

1695. — No. 970. *Sir Thos: Powys* and *Sir Bartholomew Shore*, on behalf of the Appellant, contended that the Respondents took advantage of the lease not being actually sealed, the seal being locked up, but that their client had an equitable right. *Mr. Finch* and *Mr. Dobyns*, for the Respondents, called attention to an erasure in the lease, the former admitting that the Appellant might have a title in honour, though not in law or equity. Appeal dismissed. L. J., XV. 665 ; MS. Min.]

Annexed :—

(*a*) 22 Jan. 1695–6.—Answer of Sir Gervase Clifton, Bart., and Sarah, his mother. The property in question was the house called the Spittle, and lands thereto belonging, and was worth 90*l.* a year. The Trustees were John Ayre and Hercy Pate. Sarah's Trustee was her father, Nathaniel Parkhurst, Esqre. Millicent, on making a lease of part of the premises to one Martin Cressey, got Robert Clifton to join in it, thereby acknowledging his right. On Millicent's death, Appellant made no claim to the original lease, but by some means he got possession of it ; and, having been told by one Alexander Denton, of the Middle Temple, that he had no right to it, he took it to Respondent and offered to give it up if she would give him some money to buy clothes, as he was very poor. She agreed to give him 20*l.*, and ordered a suit of clothes for him ; but, on his misbehaving himself, she withheld the clothes. Thereupon he got possession of the original lease again, and took it to Edward Stystead, the then notorious cheat of the town, who altered the date, so as to invalidate Pate's assignment of it. *Signed* by Respondents. *Endorsed* as brought in this day. *See* L. J., XV. 665.

971. Dec. 18.—Blount's Estate Act.—Letter to the Earl of Marlborough, signed by Lady Jane Blount, and dated 23 Dec., giving her assent to the Bill, and stating that fear of prejudicing her health had prevented her attendance at the Committee. [The Bill was brought from the Commons this day ; Royal Assent 21 Jan. following. L. J., XV. 616, 647. 7 & 8 Will. III. c. 7 in Long Cal. The above letter was read in Committee on 23 Dec. Com. Book.]

Annexed :—

(*a*) 23 Dec.—Consent of Ralph Freeman and Charles Cæsar, the Trustees, to the Bill. *Signed* Ra : Freman, Char : Cæsar. *Attested* Tho : Chapman. Dated 25 Nov. [Produced before the Select Committee this day. Com. Book.]

972. Dec. 19.—Writ of Summons (Bp. Bangor). Writ of Summons, dated 12 Oct. 1695, to Humphrey [Humphreys], Bp. of Bangor. [Took the Oaths this day. L. J., XV. 617.]

973. Dec. 21.—Brooke's Estate Act. Draft of an Act for vesting the Manor of Madeley in the County of Salop in Trustees for certain purposes therein mentioned. No Amendments in either House. [Read 1ª this day. Royal Assent 21 Jan. following. L. J., XV. 619, 647. 7 & 8 Will. III. c. 8 in Long Cal. *See* also Com. Book, 4 Jan. 1695–6.]

974. Dec. 21.—Oaths (Ireland) Amendment Bill. Amended* draft of an Act for [amending] *altering part of* an Act made in the third year of his present Majesty and the late Queen, intituled An Act for abrogating the Oath of Supremacy in Ireland and appointing other Oaths.

* Additions in italics, omissions in square brackets.

1695. — No. 974.

Whereas, in and by one Act of Parliament made in the third year of the reign of his present Majesty and her late Majesty the Queen deceased, entitled An Act for the abrogating the Oath of Supremacy in Ireland and appointing other Oaths, it is, amongst other things, enacted that, from and after the last day of January then next ensuing, no person that then was, or then after should be, a peer of the realm of Ireland or a member of the House of Peers there shall vote or make his proxy in the said House of Peers, nor sit there during any debate in the said House, until he first take the oaths, and also make, subscribe, and audibly repeat the declaration of the said Act mentioned and expressed in the House of Peers of Ireland, in manner and form as in the said Act is directed. By force whereof [all and] every [the] peer[s] of the said realm of Ireland, now or which shall be hereafter resident and inhabiting in this kingdom, and who, by reason of [their] *his* employment[s] in this kingdom, by sickness, or other urgent and weighty considerations, [have] *hath* not *been* or shall not be personally present in the present or future Parliament or Parliaments of the said realm of Ireland to take the aforesaid oaths and make, repeat, and subscribe the said declaration in the said House of Peers in Ireland, [are and are] *is* to be deprived and debarred of and from making [their] *his* proxie[s] in the present and future Parliaments of the said realm, although the said peer[s] shall take the same oaths and make, repeat, and subscribe the said declaration within this kingdom of England, to the great prejudice of such peer[s] and to the weakening of the English interest in the said realm of Ireland. For remedy whereof, be it enacted [and declared] by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same,* [That all and every the peers of the said realm of Ireland, who were resident or inhabiting this kingdom on the first day of the meeting of the present Parliament now held in Ireland, or who shall be resident or inhabiting in this kingdom on the first day of the meeting of any other Parliament to be held in the said realm of Ireland, and every person who after the first day of the meeting of any Parliament to be held in Ireland shall be created a peer of Ireland, or to whom the honour and title of a peer of the said realm shall descend *or come*, and who shall be resident or inhabiting in England at the time of such creation [or] descent *or coming, to the intent or purpose only to enable and capacitate him or them to make his or their proxy or proxies in the said Parliaments in Ireland*, shall and may, in the High Court of Chancery or Court of King's Bench in this kingdom, in public and open Court between the hours of nine and twelve in the forenoon in term time, *and if out of term time at the General Quarter Sessions for the County of Middlesex, in open Court between the said hours of nine and twelve in the forenoon*, take the oaths, and make, repeat, and subscribe the declaration in the aforesaid Act mentioned, (that is to say) every such peer who was resident or inhabiting in this kingdom on the first day of the meeting of the Parliament now held in Ireland in Hilary term next ensuing, and every peer who shall be hereafter resident or inhabiting in this kingdom the first day of the meeting of any other Parliament to be hereafter held in Ireland in the next term, *or at the next General*

* The amendments noted in the succeeding, which was left out in favour of that in Annex (*a*), drawn by the Judges, are taken from Annex (*b*), and were apparently those at first proposed to be made.

1695. — No. 974.

Quarter Sessions for the County of Middlesex after the calling or beginning of every such parliament to be there held as aforesaid. And *be it hereby further enacted that* every such person who after the first day of the meeting of any future Parliament in Ireland shall be created or become a peer of Ireland, in the next term *or at the next General Quarter Sessions for the County of Middlesex* after such creation [or descent] *or becoming a peer* as aforesaid, unless such peer happen to be a minor, and in such case in the next term *or at the next General Quarter Sessions for the County of Middlesex* after he shall accomplish his full age of one and twenty years, and also in the next term *or at the next General Quarter Sessions for the County of Middlesex* after the calling or beginning of every other Parliament to be held there after such [descent or] creation *or becoming a peer*. All which shall be put upon record in the said respective Courts, and a certificate shall be forthwith made thereof and signed by the Lord Chancellor, Lord Keeper or Keepers of the Great Seal, or Chief Justice of the said Court of King's Bench, for the time being, *or the Custos Rotulorum for the time being of the said County of Middlesex*, respectively, and delivered to such peer so taking the said oaths, and making, subscribing, and repeating the said declaration as aforesaid, for which shall be paid.]* And the said certificate shall be openly read in the House of Peers in Ireland, and shall be filed in the said House, and also entered and registered there, as soon as conveniently it can after the making thereof. And all and every such peer [and peers so residing or inhabiting, or which shall so reside or inhabit, in this kingdom at the time or times aforesaid,] taking the said oaths and making, subscribing, and repeating the said declaration, and causing the same to be certified, and such certificate to be openly read, filed, entered, and registered as is aforesaid, shall and may and is [and are] hereby authorized and enabled from time to time to make his [and their] proxy [and proxies] in the House of Peers in Ireland, [and shall be and are hereby freed and discharged from all pains, penalties and disabilities in and by the said former Act inflicted and ordained for the making thereof,] and every such proxy [and proxies] shall, from and after the reading, fileing, entering, and registering of such certificate as aforesaid, be received, allowed, and used as authentic in the said House of Peers in Ireland, and shall be good and effectual in law, according to the nature of proxies, for and during the continuance of the Session of Parliament in which such certificate shall be so received, filed, entered, and registered, as aforesaid, any thing in the said former Act contained to the contrary in any wise notwithstanding. Provided always that nothing herein contained shall extend or be construed to extend to make good any proxy [or proxies] of any peer of the said realm of Ireland who, after the making of such proxy [or proxies], shall be actually in the said realm of Ireland at such time as the House of Peers there shall be sitting, but that the same shall be void, and [are] *is* hereby declared to be void, from the time of the arrival of such peer in the said realm of Ireland. Provided also that nothing herein contained shall extend to make good any proxy [or proxies] of any peer of Ireland who, before the making of such proxy [or proxies], being actually in the said realm at such time as the said House of Peers there shall be sitting, shall refuse or neglect to take the said oaths, and *make* repeat and subscribe the said declaration, according to the true intent and meaning of the said former Act, but that the

* Here is marked for insertion the clause set out in Annex (*a*).

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said proxy [and proxies] shall be void, and the said peer [or peers] subject to all & every the pains, penalties, and disabilities in the said former Act contained, as if this Act had not been made.

[Read 1ª this day. L. J., XV. 620. On 6 Jan., in C. W. H., E. Rochester in the chair, it was moved that the oaths be taken in the Chancery, King's Beneh, or Quarter Sessions, and that the Judges draw a Clause, That the peers of Ireland that reside in England, if they will send their proxies to the Parliament in Ireland, shall be obliged to take the oaths and subscribe the declaration in the Chancery or King's Beneh in term time, or out of term time in the Quarter Sessions for the County of Middlesex; and the Judges present to draw the Clause (*see* Annex (*a*)). On 7 Jan. the Judges delivered the Clause drawn by them pursuant to the direetions of the Committee, which was read and amended. Other amendments were made on both days, and the Bill was reported on the 7th (MS. Min.), passed, and sent down to the Commons, where it dropped.]

Annexed :—

(*a*) 7 Jan. 1695–6.—Amended* Clause prepared by the Judges, pursuant to Order of C. W. H., and added to the Bill this day (MS. Min., 6 and 7 Jan.). It is as follows :—That [all and] every person [and persons] who now is [or are], or at any time hereafter shall be, a peer of the said realm of Ireland, before he shall be capable to make any proxy in the present or in any future Parliaments of the said realm of Ireland, shall either take the oaths and make, repeat, and subscribe the declaration in the said in part recited Aet of Parliament mentioned, in the manner therein prescribed, or else he shall take the said oaths and make, repeat, and subscribe the said declaration in the High Court of Chaneery or Court of King's Beneh in this kingdom in term time, or in the public and open Court of the General Quarter Sessions held for the County of Middlesex in the vacation time, between the hours of nine and twelve in the forenoon, and during the time of the taking the said oaths and of the making and repeating the said declaration all pleas and proeeedings in the said respective Courts shall cease. All whieh shall be put upon record in the said respective Courts. And a certificate shall be forthwith made thereof, and signed by the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal of England, Lord Chief Justice of the Court of King's Bench, or the [Custos Rotulorum] *Clerk of the Peaee* of the county of Middlesex for the time being *or his Deputy*, respeetively, and shall be delivered to such peer so taking the said oaths and making, repeating, and subscribing the said deelaration as aforesaid. And it is hereby enacted, by the authority aforesaid, that the taking the said oaths and making, repeating, and subscribing the said declaration in the said High Court of Chancery, or in the said Court of King's Bench, or in the said Court of General Quarter Sessions for the county of Middlesex, in such manner as aforesaid, shall be as suffieient *and available* to capacitate and enable every such peer to make his proxy [or proxies] in the present or any future Parliaments in Ireland, as if the same had been done in the House of Peers in Ireland, aceording to the said recited Act, anything therein eontained *to the contrary notwithstanding*.

* Additions in italics, omissions in square brackets.

1695. — No. 974. (*b*) 6 Jan. 1695–6.—Paper of Amendments proposed to be made in the first enacting Clause, before it was left out in favour of Annex (*a*). The draft is marked where these amendments should come in, and they are all noted in the text above.

975. Dec. 21. Navy.* List of Ships for the Fleet in the Channel and Mediterranean :—

Rate.	Ship's Name.	Men.	Guns.	Rate.	Ship's Name.	Men.	Guns.
1	*Britannia*	754	100	3	*Berwick*		
	Queen				*Breda*		
	Victory				*Burford*		
	Royal William				*Captain*		
	St. Andrew	706	96		*Content*		
	London				*Elizabeth*		
					Expedition		
					Hampton Court	446	70
2	*Albemarle*	640	90		*Ipswich*		
	Duchess				*Kent*		
	Neptune				*Northumberland*		
	Ossory				*Restoration*		
	Sandwich				*Stirling Castle*		
	Vanguard				*Suffolk*		
	St. Michael	582	90		*Yarmouth*		
	Royal Katherine	524	84		*Royal Oak*	436	74
					Edgar	432	72
					Monmouth	389	66
					Defiance	389	64
3	*Boyne*	476	80		*Montague*	346	62
	Cambridge				*Dunkirk*	332	60
	Chichester				*Lion*		
	Cornwall						
	Cumberland			4	*Canterbury*	346	60
	Devonshire				*Carlisle*		
	Dorsetshire				*Gloucester*		
	Humber				*Medway*		
	Lancaster				*Pembroke*		
	Newark				*Coventry*	226	48
	Norfolk				*Falmouth*		
	Russell				*Rochester*		
	Shrewsbury				*Romney*		
	Torbay				*Dragon*	216	46

List of Convoys and Cruisers, including those in the West Indies.

Rate.	Ship's Name.	Men.	Guns.	Rate.	Ship's Name.	Men.	Guns.
3	*Lenox*	446	70	4	*Chatham*	274	50
	Resolution	408	70		*Deptford*		
	Dreadnought	356	64		*Bonadventure* (hired)	197	50
	Mary				*Loyal Merchant*	187	50
	Monk	332	60		*Advice*	226	48
4	*Sunderland*	346	60		*Anglesey*		
	Windsor				*Assistance*		
	Trident	274	58		*Bonadventure*		
	Greenwich	274	54		*Bristol*		
	Newcastle				*Burlington*		
	Oxford				*Centurion*		
	Woolwich						

* Compare List in C. J., XI. 348-350.

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Rate.	Ship's Name.	Men.	Guns.
4	*Chester* - -	226	48
	Colchester - -		
	Crown - -		
	Dover - -		
	Foresight - -		
	Harwich - -		
	Lincoln - -		
	Lichfield - -		
	Norwich - -		
	Portland - -		
	Pendennis - -		
	Reserve - -		
	Ruby - - -		
	Severn - -		
	Southampton -		
	Weymouth - -		
	Archangel - -	197	48
	Coronation - -		
	Princess Anne -		
	Tiger - - -	226	46
	Hampshire - -	216	46
	Kingfisher - -		
	Africa - -	177	46
	Prince of Orange		
	Samuel & Henry -	177	44
	Ruby prize - -	190	—
	Prince George -	120	46
	Sweepstakes -	180	42
	Prudence - -	160	42
	Saudadoes prize -	180	40
	Smyrna Factor -	140	40
	Smyrna Merchant		
	Mary galley -	160	34
	Joseph - -	120	34
	Charles galley -	180	32
	Arundel - -	135	32
	Dover prize -		
	Experiment -		
	Hastings - -		
	Mermaid - -		
	Milford - -		
	Sapphire - -		
	Sheerness - -		
	Shoreham - -		
	Sorlings - -		
	Virgin prize -		
	Winchelsea - -		
5	*Tiger* (hired) -	120	32
	London Merchant	45	32
	Garland - -	130	30
	Pearl - - -		
	Play prize - -		
	Richmond - -	105	28
	Dolphin - -	115	26
	Roebuck - -		
	Speedwell - -		
	Assurance - -	80	26
	Society - -	45	22
6	*Bideford* - -	110	24
	Dunwich - -		
	Jersey - -		
	Name not given -		
	Maidstone - -		
	Newport - -		
	Orford - -		
	Penzance - -		
	Queenborough -		
	Seaford - -		
	Seahorse - -		
	Solebay - -		
	Swan - - -		
	Henry prize -	90	24
	St. Albans prize -	90	18
	Rupert prize -	85	18 6patrs.
	Lark - - -	85	18
	Mariana prize -		
	Swallow prize -	75	18
	Greyhound - -	75	16
	Saudadoes - -		
	Essex prize -	70	16
	Germoon - -	50	10 4patrs.
	Albrough, ketch -	50	10
	Hind, pink - -		
	Jolly - - -		
	Martin, ketch -		
	Quaker, ketch -		
	Roe, ketch - -		
	Wren, pink - -		
	Portsmouth prize	45	10

Memorandum: That out of this last list are to be taken 4 fourth rates, besides some small frigates, for the fleets in the Channel and Mediterranean. *Dated* Admiralty Office, 20 Dec. 1695. *Signed* E. Russell, J. Lowther, H. Priestman, Robt. Austen, R. Rich. Jno. Houblon. By command of the Commissioners, W. Bridgeman. [Received from the Admiralty this day* (MS. Min.), and read 7 Jan. following, and referred to the Committee on the Admiralty papers as to Merchants' Losses at sea (No. 959). On 6 Dec., in C. W. H. on the State of the Nation, it was *moved* to consider the state of our Fleet—that His Majesty be moved to lay before us an account of our Fleet, and in what stations they are. *Moved* to take into consideration

* Not, as stated in L. J., XV. 630, on 31 Dec. *See also* MS. Min., 7 Jan.

1695. — No. 975. the seafaring matter. An account of the Army and an account of the Navy. A list of the Land Army and a list of the Navy . . . Address for a list of the Navy and the ports they are in, and the condition and state of the Fleet, moved for . . . After some time, House resumed and E. Huntingdon reported as in L.J., XV. 606. On 11 Jan., in Select Committee, the Order of Reference of 7 Jan. was read, and it was *Ordered* that the Commissioners of the Admiralty do, with all convenient speed, send to their Lordships a particular account of what condition every ship in the list by them delivered to the House, 21 Dec. last, is in at present, as well as of all other ships omitted by them in the said list, except those in the Mediterranean and West Indies, and in what time the ships not now in good condition can be fitted for service. Com. Book. On 22 Jan. the Commissioners, being asked what answer they gave to the above Order, replied, We acquainted His Majesty with it, and he has as yet given us no direction; but on Sunday last he told us we should have his answer suddenly. Com. Book. *See also* No. 959.]

976. Dec. 27. Deere *v.* Gibbon.—Petition and Appeal of Edward Deere. Petitioner's father, William Deere, purchased in 1642 from Howell David and his wife Nest a property called Penkellivedy, in the parish of Coychurch and County of Glamorgan, and entered into possession of one moiety, the other being in jointure to Joan, mother of the said Howell David. On her death, however, while Petitioner was an infant, his mother commenced a suit for the recovery thereof, but died before it was determined, and the suit was neglected. But one William Gibbon, pretending a title to the first moiety as heir of Howell David under a mortgage, and to the second by grant from one Punter, who, he pretends, was heir to Nest, finally obtained a Decree in Chancery, at the Grand Sessions held at Brecon, allowing his claim to the second moiety with costs, but dismissing his claim to the first without costs, on the ground of its having been 45 years in the possession of the Deeres. Appeals against this Decree with regard to the second moiety of the estate and the costs as to the other moiety. *Signed* by Appellant, and *countersigned* Tho: Powys and Wm. Dobyns. L. J., XV. 622. [At the hearing, on 5 Feb. 1695–6, *Sir Thomas Powys* and *Mr. Dobyns* appeared for Appellant, and *Mr. Finch* and *Mr. Price* for Respondent. A preliminary objection as to the competency of the Appeal from the Grand Sessions of Wales was raised. *Sir T. Powys* said it was very clear there was no relief anywhere else. The Courts are equal to the Chancery. *Mr. Dobyns* cited Eyre's Appeal from the Duchy of Lancaster, and Wainewright's from an Order of Sessions. *Mr. Finch* could not say they were frequent. He knew it had been attempted and denied. *Mr. Price* believed there had been appeals to Chancery. *Ordered* to go on with the Cause. It was urged for the Respondent that he had been in possession above 50 years. The objection was the Judges made a Decree instead of ordering another trial. Decree reversed. L. J., XV. 661.; MS. Min.]

Annexed:—

(*a*) 28 Jan. 1695–6.—Petition of William Deere, Appellant's brother, praying to be allowed to enter into the Recognizance instead of Appellant, who was ancient and infirm, and not able to travel. L. J., XV. 654.

(*b*) 28 Jan. 1695–6. Answer of William Gibbon, Gent.—David Richard Howell, Respondent's great-ancestor, settled one moiety of the estate, on the marriage of his son Howell David with

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Nest, daughter of John Rees, upon the said Howell and Nest, and upon their issue in tail, with reversion to his own right heirs, and the other moiety upon himself and Joan his wife, and then to Howell David, with like remainders as the other moiety. Howell David mortgaged the first mentioned moiety to William Deere, and afterwards died without issue. On Joan's death, 34 years since, the other moiety descended to Respondent's father, Gibbon Richard, son and heir of Richard Gibbon, son and heir of Gibbon Richard, brother and heir to David Richard Howell. The mortgage on the other moiety could not be paid off, owing to the late wars and the infancy of Respondent's ancestors. A Bill exhibited in Chancery against Respondent in the same matter by Appellant, who was a pauper, was dismissed. Appellant had not paid the costs. *Countersigned* Ro: Price, Hen. Remfrey. *Endorsed* as brought in this day. MS. Min. *See* L. J., XV. 660.

(*c*) 20 Dec. 1697.—Petition of Appellant. Notwithstanding the Judgment of the House (L. J., XV. 660), Respondent has brought a new ejectment against Appellant and obtained a verdict for one moiety, and he has imprisoned Appellant for non-payment of 10*l.* costs, though he owes him above 500*l.* on account of rents wrongfully received. Appellant had bought the Equity of Redemption of the mortgaged moiety from one Punter for 5*l.* Prays Respondent may be ordered to answer. L.J., XVI. 183. [On 28 Jan. 1697–8 *Mr. Grove* and *Mr. Cresset* were heard for Appellant on this Petition, and *Mr. Serjeant Wright* and *Mr. Price* for Respondent. Petition dismissed. L.J., XVI. 204; MS. Min.]

(*d*) 17 Jan. 1697–8.—Answer of Respondent to preceding Petition. He has taken no advantage of the Decree reversed by the House, and has brought his ejectment at law for the unmortgaged moiety only. Appellant, suing *in formâ pauperis*, has brought a multiplicity of vexatious suits against Respondent, and has caused him to spend 300*l.* for what is worth only about 12*l.* a year. *Endorsed* as brought in this day.

977. Dec. 27.—Poulet's Estate Act.—Amended* Draft of an Act to enable the Lord Francis Pawlet to [settle four hundred and fifty pounds per annum annuities on his younger children as a provision for them] *charge his estate with provisions for his younger children.* Does not include a Saving Clause, which was added by the Lords. No Amendment in the Commons. [Read 1ª this day; Royal Assent 13 Feb. following. L. J., XV. 622, 668. 7 & 8 Will. III. c. 15 in Long Cal. In Select Committee, on 14 Jan., *Mr. Strowd* offers several Amendments, which are made with the consent of the persons concerned. They are mainly formal. *E. Bridgewater* shows a letter from the Lady Richardy, whereby she consents. A consent, signed by Isabella Bellasise, F. Richardy, Honnora Bergavenny, Catherine Talbot, and Barbara Webb, is read. Com. Book.]

Annexed:—

(*a*) 14 Jan.1695–6.—Amended clause. [Substituted this day for the whole of the enacting clause, but to the same effect. Com. Book.]

(*b*) 14 Jan. 1695–6.—General Saving Clause. [Added to the Bill this day. Com. Book.]

* Omission in square brackets, addition in italics.

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978. Dec. 27.—Coinage (Silver) Bill. Papers relating to a Bill for the regulating the Coinage of the Silver money of this Kingdom. [The Bill was brought from the Commons this day. (L. J., XV. 622.)* It was committed to C. W. H. on the 30th, and then it was moved that an Address be made to his Majesty to prolong the time in the Proclamation. Then it was moved to send to the Officers of the Mint for a Return of how much money they could coin a week (see *a* and *b* below). In C. W. H., E. Bridgewater chairman, the title and preamble were read and postponed. *Moved* to address the King to prolong the time after which Crowns and Halfcrowns may not go. The first enacting clause read and postponed, and so the other clause, down to that which recites the Proclamation. Then the same motion for an Address was repeated. *Moved* That a Clause be prepared, upon the debate of the House in the Committee, that money may go by weight. That money be received by weight, and a Clause drawn upon the debate by a Select Committee appointed for that purpose. Agreed to postpone all the Clauses to the Clause 9th Skin, 8 line. A Select Committee was then appointed. (MS. Min.; L. J., XV. 623.) On the 31st, in Select Committee, it was proposed that the L. C. Justice be desired to make an addition to the first Clause in 9th Skin, to comprehend all the money in the kingdom, as well as that brought into the Exchequer; and that he prepare a Clause to make all clipped money, till it can be recoined, to pass by weight. The *L. C. Justice* brought in an addition as above, which was agreed to be reported as Paper marked A (see *f* below). There is added a note that it was altered the next day. (Com. Book.) On the 31st, in C. W. H. on the said Clause, E. Bridgewater Chairman, it was read, and the first blank was agreed to be filled up with (25 Jan. 1695) and the second with (before 10 Jan. [Feb.]† 1695). The Clause was agreed to as amended. A Clause was offered and read, to be added to the Bill, and the substance was referred to the Select Committee. *Ordered* that any Lord at the Committee may offer any Clauses or Amendments to the Bill at the Select Committee. (MS. Min.) The Bill was accordingly considered in Select Committee on 1 & 2 Jan., and reported with amendments. (Com. Book.) On 2 Jan., in C. W. H., the amendments reported from the Select Committee were agreed to; the Clause offered at the Select Committee, which it had not made part of the Act, was read and waived. The Clause concerning

* The proceedings on this subject prior to this, in pursuance of the King's Speech, are given in MS. Min. as follows:—On 2 Dec. House moved to consider the State of the Coin of the Kingdom. (MS. Min.; No entry in L. J.)—On 3 Dec., in C. W. H. on the State of the Nation, E. Huntingdon in the Chair, *Moved* to consider the state of the Coin. Then *moved* to consider the state of Trade first.—On 4 Dec., in C. W. H. on the State of the Nation in relation to the Coin of this Kingdom, same Chairman, *Moved* to make an Address to the King that no English Coin should be imported. *Moved* that the clipped money be called in by a day certain. *Moved* that an Address be prepared for a Proclamation for that purpose. Proposed to consider who should bear the loss upon calling in the money. *Moved* That a Committee be appointed to draw something upon the debate this day in C. W. H., to be offered to the House. After some time, the House was resumed, and E. Huntingdon reported as in L. J., XV. 604.—On 5 Dec. Address reported from Committee as in L. J., XV. 605, and communicated to the Commons.—On 16 Dec. *Moved* to prepare the former Address concerning Coin, so as to fit it for His Majesty. The Address made 5 Inst., and sent to the Commons, was read. Committee appointed to draw the Address, which was drawn, reported, and ordered to be presented.—On 17 Dec. King's Answer as in L. J., XV. 615. (MS. Min.) Nothing more is recorded until the Bill came up from the Commons.

† Cf. C. J., XI. 379 and L. J., XV. 635.

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the Mints was read, being specially reported to C. W. H. After the two amendments in 11th Skin (as to the Mints), a Clause was read, offered to the Select Committee, and by them laid before C. W. H., concerning the transporting of money, and, being amended as to the dates, was agreed to (see *h* below). In 11 Skin, 16 line, a Clause was offered and read against coining guineas, and agreed to after the blanks had been filled up (see *g* below). A Clause for taking money only by weight in the Exchequer was laid aside. (MS. Min.)*—On 8 Jan., after the Resolution to vindicate the rights of the House (see *m* below), the motion for adjournment was carried by 29 votes to 19, E. Feversham and E. Monmouth Tellers. (MS. Min.)—On 9 Jan. the motion to insist on the amendments concerning the Mint (11 Sk., 13 & 15 lines) was carried by 32 votes to 28, E. Scarsdale and E. Marlborough Tellers. (MS. Min.)—The Select Committee, E. Bradford chairman, appointed to draw up Reasons, agreed to Reasons by 7 votes to 1. (Com. Book, 10 Jan.)—The Bill then appears to have been dropped by the Commons, who sent up another Bill on the same subject, for remedying the ill state of the Coin, on 17 Jan., which was passed without amendment, and received the Royal assent on 21 Jan. (L. J., XV. 643, 647.) (7 & 8 Will. III. c. 1 in Fol. Ed.) The C. W. H. on this second Bill reporting specially on 18 Jan. that it contained a Clause for erecting of Mints, similar to that in dispute in the former Bill, a Select Committee was appointed to inspect the Books in reference to this matter, and, if they find this not usual, that they proceed to draw what shall be offered at the Conference. L. Cornwallis, M. Normanby, E. Rochester, D. Bolton, D. Bridgewater, &c. were named of the Committee. (MS. Min., 18 Jan.)—On the same day this Committee met, E. Rochester in the chair, and the Clerks offered some precedents (of tacking), which were read, viz. :—8 March, 23° Eliz., the Bill for fortifying the Borders towards Scotland, and the old Bill withal. *Agreed* to be reported. 21 March, 29° Eliz., an Act for the sale of Thomas Hanford's lands. *Agreed* to be reported. 23 Feb. 1691, the Poll Bill.—On 20 Jan. these further precedents were offered : 17 May, 3° Jac., Bill concerning Purveyors is read, but not to be reported. 30 March 1671, Report concerning the Bill for Brandy [Foreign Commodities Bill] was read and ordered to be reported. A Paper was drawn and agreed to be reported to the House as fit to be said to the Commons at a Conference. (Com. Book, 18 & 20 Jan.)—On 20 Jan. E. Rochester reported the above Precedents to the House, and also what was drawn up to be offered at the Conference, as follows :—The Lords conceive, while there is a Bill pending between the two Houses for the regulating the coinage of the silver money of this kingdom, wherein their Lordships have disagreed to a particular Clause in that Bill in relation to the establishing four Mints in the remote parts of the kingdom, that it is contrary to the known and usual methods of proceedings in Parliament that the same Clause should by either House be brought into a new Bill while it remains undetermined in the old, which their Lordships have thought fit to represent to the Commons, to the end that, for the future, all innovations in the methods of proceedings between the two Houses may be carefully avoided. For the present their Lordships do not insist on the observing of this method ; but, in regard to the importance of this Bill at this time, have agreed to it without any alteration or amendment. A Message was sent to the House of Commons by Sir Miles Cooke and . . . , to desire a present [Conference] concerning

* The Lords' Amendments are given *in extenso* in C. J., XI. 378, except in the case of the Clauses A, B, and C, which are *in extenso* in L. J., XV. 635.

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the methods of proceedings in Parliament upon the occasion of the Bill intituled An Act . . . . (MS. Min.) The whole of these entries in the MS. Min., from the reference of the matter to the Select Committee are expunged, and do not appear in the Journals.]

The papers are as follows :—

(*a*) 31 Dec. Certificate of the Officers of the Mint that they can coin 20,000*l.* a week, and in another month will be able to coin between fifty and sixty thousand pounds a week. (L. J., XV. 624–5. *In extenso.*)

(*b*) 31 Dec. Minute of the examination of the Officers of the Mint this day at the Bar. Being asked whether they cannot provide more mills sooner, they answer A day or two sooner possible may be done, but not sooner. Being asked, if they have mills as they propose, what sorts of money they can so coin, they answer crowns and half crowns ; if otherwise, almost two thirds. (*See also* MS. Min.)

(*c*) 31 Dec. Draft Order referring the Bill to a Select Committee this day. (L. J., XV. 625.)

(*d*) 3 Jan. 1695–6. Parchment containing Lords' Amendments in 4 Pr., line 41, in 6 Pr., line 8, and in same Pr., line 13, reported from C. W. H. this day. (L. J., XV. 627 ; C. J., XI. 378. *In extenso.*)

(*e*) 3 Jan. 1695–6. Parchment Clause inserted by the Lords in Press 7, line 21. Reported from C. W. H. this day. (L. J., XV. 627 ; C. J., XI. 378. *In extenso.*)

(*f*) 3 Jan. 1695–6. Parchment Clause, marked A, inserted by the Lords in Press 9, line 24, as to the weighing of clipped coin, reported this day, but, on being disagreed to by the Commons, desisted from, upon question, on 9 Jan. (L. J., XV. 627, 634–5. *In extenso.*)

(*g*) 3 Jan. 1695–6. Parchment Clause, marked B, inserted by the Lords in Press 11, line 16, prohibiting importation or coining of gold coin, reported this day, but agreed to be desisted from on 9 Jan. (L. J., XV. 627, 635. *In extenso.*)

(*h*) 3 Jan. 1695–6. Parchment Clause, marked C, inserted by the Lords, to follow preceding Clause B, permitting export of coin as merchandize, reported this day, but agreed to be desisted from on 9 Jan. (L. J., XV. 627, 635. *In extenso.*)

(*i*) 7 Jan. 1695–6. Commons' Reasons for disagreeing to some of the Lords' Amendments, drawn up and offered at the Conference this day. (C. J., XI. 381 ; L. J., XV. 633.) They are to the following effect :—

Pr. 1, l. 14 (to add "and diminished"). The Commons disagree because they are of opinion that all or most of the hammered money that is not clipped or diminished unlawfully does want more or less of the due weight by constant use and wearing, which notwithstanding is current coin and absolutely necessary for carrying on the present commerce by tale while the clipped money is recoining.

Pr. 6, l. 9 (instead of "at convenient villages" read "towns corporate"). The Commons disagree because in several counties there are no market towns or towns corporate within a convenient distance for taking such receipts.

Pr. 6, l. 40 (leave out from "Trier" to "and" in l. 43). They disagree because they think it too great a trust to be lodged in the Receiver and Trier alone, without such control as the Commons had appointed.

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Pr. 9, l. 24 (the insertion of Clause A, (*f*) above). They disagree because it is inconsistent with the design and purpose of the Bill sent up from the Commons, and does wholly alter the known and accustomed method of commerce in this kingdom, and must necessarily be attended with great difficulties and inconveniences.

Pr. 11, ll. 13 & 15 (opposing the erection of at least four Mints). The Commons disagree because the erecting Mints in the country may be a great means of keeping the moneys there which must otherwise be brought up to London, to the dissatisfaction of his Majesty's subjects in the remote parts.

The Commons disagree to the Clause marked B ((*g*) above), because the prohibiting the importation of gold, which is the return of our manufactures, may be a great prejudice to the foreign trade of this kingdom, and the plenty of gold coins, together with the restoring the silver coins to the standard, will most effectually lower the exorbitant price of gold.

They disagree to the Clause marked C ((*h*) above) because it is very unreasonable to export money in this time of great scarcity thereof.

(*k*) 7 Jan. 1695–6. Commons Protest, delivered at the close of the Conference this day, as follows :—The Commons likewise hold themselves obliged to take notice that in the Clauses sent down from their Lordships there is a charge, and there are pecuniary penalties laid upon the subject, which ought to have their commencement only from the House of Commons. (*See* L.J., XV. 632, 633, 637.)

(*l*) 9 Jan. 1695–6. Lords' Message agreeing to the Commons' Amendment to the Lords' Amendment in 6th Press, l. 13, and desisting from all their amendments except those in Pr. 11, l. 13, as to the Mints, on which they insist. (*See* L.J., XV. 634–6.) Delivered at the Conference of 11 Jan. (*Ib.* 638.)

(*m*) 10 Jan. 1695–6. Lords' Answer to (*k*) above, contenting themselves with a denial. (L.J., XV. 637. *In extenso.*) Delivered at the Conference of 11 Jan. (*Ib.* 638.)

(*n*) 10 Jan. 1695–6. First Draft of preceding.

979. Dec. 30.—Army. A list of the General Officers and of the Colonels and Commanding Officers of his Majesty's Land Forces, with the numbers :—

Duke of Schonburg and Leinster, General of the Horse.

Earl of Oxford	Lieutenants General.
Monsr. D'Auverquerc	
Earl of Portland	
Lord Viscount Galway	
Earl of Scarborough	
Duke of Ormond	
Earl of Romney	
Earl of Rochford	
Sir Henry Belasyse	
Comte Nassau	
Sir Thomas Levingston	Majors General.
Charles Churchill, Esqr.	
George Ramsey, Esqr.	
Earl of Rivers	
Monsr. de la Meloniere	
Col. Eppinger	
Earl of Macclesfield	
Marqs. de Miremont	

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William Steuart, Esqr. -
Monsr. de L'Estang -
Richard Leveson, Esqr. -
Elias de Boncour -
Thomas Erle, Esqr. -
The Lord Cutts -
Henry Lumley, Esqr. -
Sr. David Collyear -
Bojeslave Schack -
Edward Fitzpatrick, Esqr. -
Baron de Hompesch -
Lord George Hamilton -
William Selwyn, Esqr. -
} Brigadiers.

Regiments and Colonels.	Troops and Companies.	Commission Officers.	Non-Commission Officers.	Private Men.	Together.
Horse.					
Troops of Guards { 1st, Earl of Scarborough	1	16	5	200	221
Troops of Guards { 2nd, Duke of Ormond -	1	16	5	200	221
Troops of Guards { 3rd, Earl of Rivers -	1	16	5	200	221
George Cholmondly, Grenadr. Guards -	1	11	20	180	211
Duke of Queenborough, Scots Guards -	1	11	5	118	134
Earl of Oxford, Royal Regimt. - - -	9	40	45	531	616
Brigadr. Henry Lumley, Queen's Regt. -	9	40	45	531	616
Brigadr. Richard Leveson - - -	6	29	30	354	413
Colonel Cornelius Wood - - - -	6	29	30	354	413
Col. Francis Langston - - -	6	29	30	354	413
Col. John Coy - - - - - -	6	29	30	354	413
Col. Hugh Wyndham - - -	6	29	30	354	413
The Duke of Schonburg & Leinster - -	6	29	30	354	413
The Lord Viscount Galway - - -	9	114	45	531	690
The Earl of Macclesfield - - - -	6	29	30	354	413
The Earl of Arran - - - -	6	29	30	354	413
Col. Thomas Windsor - - - - -	6	29	30	354	413
Dragoons.					
Brigadr. Edward Matthews - - -	8	38	72	480	590
Col. William Lloyd - - - - -	8	38	72	480	590
Earl of Essex - - - -	8	38	72	480	590
Sir Thomas Levingston - - - -	8	38	72	480	590
Col. Charles Ross - - - -	8	38	72	480	590
Col. Richard Cunningham - - - -	8	38	72	480	590
Col. Edward Leigh - - - -	8	38	72	480	590
Earl of Denbigh - - - - - -	8	38	72	480	590
Marquis de Miremont - - -	8	38	72	480	590
Foot.					
The Earl of Romney, 1st Regt. of Guards -	28	99	224	2240	2563
John, Lord Cutts, Coldstream Guards -	14	51	112	1120	1283
Major Genl. Ramsey, Scots Guards - -	16	57	128	1280	1465
Lord George Hamilton - - -	26	88	208	1560	1856
Brigadr. Edward Fitzpatrick - - -	13	46	104	780	930
Brigadr. William Selwyn - - -	13	44	104	780	928
Major General Charles Churchill - -	13	44	104	780	928
Col. Henry Trelawny - - -	13	44	104	780	928
Col. John Beaumont - - - - -	13	44	104	780	928

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Regiments and Colonels.	Troops and Companies.	Commission Officers.	Non-Commission Officers.	Private Men.	Together.
Foot—continued.					
Sr. Bevill Granville	13	44	104	780	928
Col. Richard Brewer	13	44	104	780	928
Sir John Jacob	13	44	104	780	928
Col. John Tidcomb	13	44	104	780	928
Sr. David Collyear	13	44	104	780	928
Col. Emanuel How	13	44	104	780	928
Col. Edward Dutton Colt	13	44	104	780	928
Sir Matthew Bridges	13	44	104	780	928
Col. Francis Collingwood	13	44	104	780	928
Col. James Stanley	13	44	104	780	928
Col. Robert Mackay	13	44	104	780	928
Col. Thomas Erle, 2 Batall.	26	88	208	1560	1856
Col. Henry Mordaunt	13	44	104	780	928
The Duke of Bolton	13	44	104	780	928
Col. Luke Lillingston	5	18	40	500	558
Col. Henry Holt	5	18	40	500	558
Col. Thomas Saunderson	13	44	104	780	928
Marquis de Puissar	13	44	104	780	928
Col. Richard Ingoldsby	13	44	104	780	928
Col. James Maitland	13	44	104	780	928
Col. James Ferguson	13	44	104	780	928
The Lord Lorne	13	44	104	780	928
Col. Zachariah Tiffin	13	44	104	780	928
Col. Æneas Mackay	13	44	104	780	928
Col. Walter Philip Collyear	13	44	104	780	928
Col. George Lawder	13	44	104	780	928
Col. Ventris Collumbine	13	44	104	780	928
Col. William Scymour	13	44	104	780	928
Col. Thomas Fairfax	13	44	104	780	928
Col. Frederick Hamilton	13	44	104	780	928
Major Genl. la Meloniere	13	82	105	780	967
Comte Marton	13	82	105	780	967
Col. de Belcastell	13	82	105	780	967
Sr. Henry Belasyse	13	44	105	780	929
Col. Thomas Brudenall	13	44	105	780	929
Brigadr. William Steuart	13	44	105	780	929
Col. Richard Coote	13	44	105	780	929
Col. John Bochan	13	44	105	780	929
Col. George Hamilton	13	44	105	780	929
Earl of Strathnaver	13	44	105	780	929
Col. John Gibsone	13	44	105	780	929
Col. Edward Northcott	13	44	105	780	929
Col. Thomas Farrington	13	44	105	780	929
Col. Francis Russell	5	18	40	500	558
Independent Companies.					
Capt. Thomas Pitts	1	2	6	50	58
Sir Thomas Taylor	1	2	6	50	58
Capt. Anthony Beverly	1	4	14	150	168
Capt. John Twiddall	1	3	9	80	92
Capt. Thomas Lloyd	1	3	9	80	92
Capt. Thomas Pickin	1	3	9	80	92
Col. Thomas Hill	1	3	8	60	71
Col. Benjamin Fletcher	1	4	8	100	112
Major Richard Ingoldsby	1	3	8	100	111
Capt. William Hyde	1	3	8	100	111
Capt. James Weems	1	3	8	100	111

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Regiments and Colonels.	Troops and Companies.	Commission Officers.	Non-Commission Officers.	Private Men.	Together.
Danish Horse.					
Prince Charles of Wirtemberg	6	32	36	306	374
Marqs. de la Forest	6	32	36	306	374
Count Rauventlaw	6	32	36	306	374
Danish Foot.					
Duke of Wirtemberg, Guards	7	42	91	728	861
Brigadr. Haxthuysen	7	36	91	714	841
Colonel Ortz	6	32	78	612	722
Prince of Sunderburg	6	32	78	612	722
Colonel Erfa	6	31	78	612	721
Col. Eppinger	6	32	78	612	722
Col. Schoer	6	32	78	612	722
Late Ellenberger	6	31	78	612	721
Dutch Horse.					
Monsr. D'Auverquerc, 4th Tr. of Guds.	1	15	5	200	220
Earl of Portland, Regt. of Horse	6	28	36	402	466
Single Squadrons: Col. Steinbock	3	16	15	198	229
Col. Rechteren	3	16	15	198	229
The Marqs. de Monpouillan	3	17	18	165	200
The Earl of Athlone	3	17	18	165	200
Col. Tengnagel		17	18	165	200
Earl of Rochford		17	18	165	200
Col. Schack	3	17	18	165	200
Col. Vittenghoff	3	17	18	165	200
Col. Boncour	3	17	18	165	200
Dutch Dragoons.					
Major Genl. Eppinger	10	45	90	800	935
Dutch Foot.					
Duke of Wirtemberg, Guards	26	90	209	2381	2680
Count Nassau	12	40	120	684	844
Col. Wilks	12	40	120	684	844
Prince of Brandenburg	12	40	120	684	844
Hanover Horse.					
Brigadr. Montigny	6	35	38	312	385
Colonel Ohr	6	35	38	312	385
Col. Zuylen	6	35	38	312	385
Colonel Turk	6	35	38	312	385
Hanover Foot.					
Prince of Hanover	7	26	99	616	741
Col. St. Paul	7	26	99	616	741
Col. Cinquille	7	26	99	616	741
Col. Hulson	7	26	99	616	741
Wolfembuttle Foot.					
Prince of Brunswick	7	26	99	616	741
Col. Havengh	7	26	99	616	741

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Abstract of the Numbers.	Troops and Companies.	Commission Officers.	Non-Commission Officers.	Private Men.	Together.
Horse - - - - - - - - -	162	955	902	9996	11853
Dragoons - - - - - - - -	82	387	738	5120	6245
Foot - - - - - - - - - -	875	3200	7589	58553	69342
Total - - -	1119	4542	9229	73669	87440

[Delivered this day by] E. Romney, by his Majesty's Command, pursuant to Address of 7 Dec., and read 7 Jan. 1695–6. (L. J., XV. 607, 608, 624, 632.) On 6 Dec., in C. W. H. on the State of the Nation in General, E. Huntingdon in the Chair, it was *moved* to apply to His Majesty that a Muster Roll of the Land Army be laid before the House—an Account of the Army—a List of the Land Army—that the House be moved to address the King for a List of all the field and land officers in the Army. After some time, House resumed, and Resolution reported To move the House for an Address to the King for a List of the Army in English pay, with the names of the General Officers and all other Commission Officers, and of what nation the Regiments and Officers are. (MS. Min.) Nothing is recorded as having followed upon the reading of this Paper on 7 Jan.]

980. Jan. 1. Warner's Estate Act.—Draft of an Act for enabling Trustees to sell part of the Estate of Edmund Warner, deceased, for payment of his debts and for preserving the rest for the benefit of his heir. The Commons' Amendments are formal. No Amendments in the Lords.

[Read 1ª this day; Royal Assent 13 Feb. following. L. J., XV. 626, 668. 7 & 8 Will. III. c. 18 in Long Cal. In Select Committee, on 14 Jan., Mrs. Warner, the widow, Nathaniel Hawes, the grandfather, and Mr. Nicholas, for Mr. Currance the mortgagee, were present and consented to the Bill. Com. Book.]

981. Jan. 2. Haynes' Estate Act.—Amended Draft of an Act to enable Richard Haynes Esq. to settle a jointure on his now wife, and to exchange lands with the Trustees of Thomas Stevens Esq., deceased. The Amendments made in both Houses are merely drafting ones. [Read 1ª this day; Royal Assent 13 Feb. following. L. J., XV. 627, 668. 7 & 8 Will. III. c. 17 in Long Cal. In Select Committee, on 14 Jan., the consents of the brothers and sisters of Richard Haynes and that of his father-in-law were read, also the consent of the Trustees of Mrs. Stevens. Com. Book.]

Annexed :—

(*a*) 14 Jan. Consent of Thomas Haynes, of Langredge, Somerset, brother of Richard, to his settling a jointure not exceeding 200*l.* a year on his wife Anne out of the Estate. *Dated* 6 Nov. 1695, and *attested* by Thomas Esteourt, Edward White, and Richard

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Williams. [Produced before the Select Committee this day. Com. Book.]

(*b*) 14 Jan. Similar Consent of James Haynes, another brother, of the City of Bristol, Merchant, *dated* 19 Nov. 1695, and *attested* by James Baskerville, William Thresher, and Richard Williams. [Produced before the Select Committee this day. Com. Book.]

(*c*) 14 Jan. Consent of Thomas and Hannah Hickes, brother-in-law and sister of Richard Haynes, to the Bill, Christopher Cole, of Charlton, Anne's father, having conveyed to Richard certain property in Charlton on condition of his making a settlement on her. *Dated* 22 Nov. 1695, and attested by Edmund Butts, Richard Williams, and William Jones. A memorandum is endorsed, witnessed by Williams and Jones, that the consent is given on condition that the thirds of Mrs. Mary Haynes, widow of Thomas Haynes, the father of Richard, are not infringed. [Produced this day before the Committee. Com. Book.]

(*d*) 14 Jan. Consent, similar to (*a*), of Thomas and Mary Deacon, brother-in-law and sister of Richard Haynes. *Dated* 28 Nov. 1695, and *attested* by Abigail Lambert, John Stevens, and Richard Williams. [Produced this day before the Committee. Com. Book.]

(*e*) 14 Jan. Consent of Christopher Cole, of Charlton, father-in-law of Richard Haynes, to his making a settlement of 200*l.* a year on his wife in lieu of the jointure formerly agreed on, provided he does so by Act of Parliament at his own cost. *Dated* 30 Nov. 1695, and *attested* by Mary Whitson, Richard Williams, and Thomas Pierce. [Produced this day before the Committee. Com. Book.]

982. Jan. 3. Stoner's Estate Act.—Amended Draft of an Act for enabling Thomas Stoner, Esq., son and heir of John Stoner, Esq., deceased, to make a Jointure and Settlement of his Estate in marriage notwithstanding his minority. The Amendments in Lords' Committee are purely clerical. No Amendment in the Commons. [Read 1ª this day; Royal Assent 21 Jan. L. J., XV. 628, 647. 7 & 8 Will. III. c. 9 in Long Cal. E. Fauconberg's consent was signified by Visc. Longueville, and Sir John Talbot gave his consent on 9 Jan. Com. Book.]

983. Jan. 6. Heron's Estate Act.—Amended Draft of an Act to enable Sir Charles Heron, Bart., to sell lands for payment of a portion and debts. An Amendment inserted in the Lords' Committee makes the payment of the portion of Elizabeth Heron and the arrears of her maintenance the first object to which the money raised is to be devoted. The other Amendments and those made by the Commons are chiefly of a formal character. [Read 1ª this day; Royal Assent 10 April following. L. J., XV. 630, 733. 8 Will. III. c. 60 in Long Cal. In Select Committee, on 22 Jan., *Mr. Common Serjeant*, for Sir Charles Heron, says we know nothing of the equity of the Act. We know not the trustees, so desire we may name one. The time given by the Bill is indefinite. We pray it may be limited, otherwise, if the trustees, do not sell, we cannot have relief in Chancery. *Sir Charles Heron*; The Bill is for the benefit of the creditors. If purchasers know the time is limited, they will not buy till near the expiration of that time, and so we must sell at under rate. *Mr. Common Serjeant*: If we may name as many trustees as Sir Charles does, I shall not insist on my other proposition of a limited

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time. He desires his client may not be postponed in the payment of his debt, but that he may be paid according to the date of the mortgage. They withdraw. After debate, they are called in and advised to meet and agree amongst themselves as to the trustees. They are told that they must procure the consent of all the creditors, or at least give them notice of the Bill, and make affidavit of their several answers before a master in Chancery, and that they shall have an Order to this purpose (annex *a*). On 10 February the consents of the persons mentioned in annexes (*b*) and (*d*) are proved. *The Common Serjeant* renews his application on behalf of Sir Charles Heron and says the trustees are strangers to us and the estates lie at a distance. If the Bill pass, we cannot in Chancery bring a Bill to debar them from the equity of Redemption. On 12 February several amendments proposed by the parties were made. Com. Book.]

Annexed :—

(*a*) 22 Jan. Order of Select Committee calling upon Sir Charles Heron to produce before the Committee on 10 Feb. the Consents or Answers of the Mortgagees mentioned in the Bill, testified before a Master of Chancery in Extraordinary. Appended to (*b*). *See* Com. Book, 22 Jan.]

(*b*) 10 Feb. Parchment Copy of the proposed Bill, endorsed with the Consents of Ralph Errington, of Beaufront, Northumberland, John Douglas, of Newcastle, his Trustee and Mortgagee in the Act mentioned, and Charles Shaftoe, of Carycoates, Northumberland, Executor of his late brother, John Shaftoe, Clerk, another of the mortgagees, all *dated* 30 Jan., and *attested* by William Carr and Cuthbert Stokoe, the consents of Douglas and Shaftoe being given on condition that the money to be raised suffice to pay off all mortgages, and also the portion of Elizabeth Heron and the arrears, together with all interest, costs, and charges, and be so employed ; and also endorsed with the consent of John Armstrong, another of the Mortgagees, *dated* 10 Feb., and attested by Cuthbert Stokoe and George Allgood. [Produced this day before the Select Committee. Com. Book.]

(*c*) 10 Feb. Affidavit of William Carr and Cuthbert Stokoe, of Hexham, sworn before Peter Potts, a Master of Chancery in Extraordinary, at Newcastle on Tyne, on 3 Feb., that on 31 Jan. they went to Ralph Errington and Charles Shaftoe, and on 3 Feb. to John Douglas, and saw them sign and seal their consents to the Bill. [Appended to (*b*). *See* Com. Book, 10 Feb.]

(*d*) 10 Feb. Parchment signed and sealed by Sir Charles Heron, Dame Anne Heron, Dame Elizabeth Heron, Charnock Heron, Matthew Heron, Wm. Lorraine, Wm. Graham, D.D., and with the mark of Cuthbert Heron, as consenting to the Bill, the provisions of which are set out. *Dated* 24 Dec. 1695, and *attested*, as to Dame Eliz. Heron and Cuthbert Heron by Geo. Errington and Joseph Blakey, as to Dr. Graham by George Allgood, Cuthbert Stokoe, and Will : Arrowsmith, and, as to the rest by George Allgood, Henry Harding, Gilb : Good, and John Ely. [Produced this day before the Select Committee. Com. Book.]

(*e*) 10 Feb. Affidavit of William Carr and Cuthbert Stokoe, sworn on 3 Feb., at Newcastle, before John Douglas, a Master

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of Chancery in Extraordinary, that they saw William Lorraine sign and seal the above. [Appended to preceding paper.]

984. Jan. 11. Lustrings Bill.—Draft of an Act to supply the defects in the Act made the last Session of Parliament (as to what relates to Alamodes and Lustrings), intituled An Act for granting to His Majesty certain duties upon glasswares, stone and earthen bottles, coals and culm, for carrying on the war against France. It is to the following effect:—Whereas, for preventing ill men to import fraudulently great quantities of French Alamodes and Lustrings, and to utter and sell the same in this Realm, it is, amongst other things, provided by the Act 6 & 7 W. III. c. 18 that no person or persons shall presume to deal or sell, buy or sell again, or send beyond sea, any black Alamodes or Lustrings, unless they have the seal or mark which are already used for foreign goods at the Custom House, or the seal or mark also used by the Lustring Company for the goods manufactured by them in England, under the forfeiture of all such unqualified goods, and also under the forfeiture of 100*l.* for every offence, to the uses in and by the said Act limited and appointed, and thereby no provision being made for the Company of Weavers of London, or for the Weavers of any other Companies in any other City or Corporation in England, to seal or mark the Alamodes and Lustrings made and manufactured by them in England, all weavers except such as are of the Lustring Company are seemingly prohibited to utter, buy, or sell such goods, for remedy thereof, and to supply the defects of the said Act, the Bill provides that all Weavers, of all Companies in England as well as the Lustring Company, may utter and sell or send beyond sea the Alamodes and Lustrings made by them in England; and, for the better preventing the importation of French goods, all Alamodes and Lustrings already made in England, and not marked as provided by the said Act, shall, on or before the day of , be sealed or marked by such person or persons and with such seal or mark as the Company of Weavers of London shall appoint for London and all other parts of this Realm, except towns wherein a Company of Weavers is established, in which case persons appointed by the respective Companies shall have the sealing or marking of all Alamodes and Lustrings made therein; and such goods, made after the day of in England by the Lustring Company or by other Companies of Weavers, shall be sealed or marked as aforesaid in the loom, before being cut off from the warp. Persons uttering, selling, or sending beyond sea any such goods not sealed as aforesaid shall incur the penalties and forfeitures provided in the said Act in the case of goods not sealed or marked by the Lustring Company, and every discoverer of frauds shall have such reward as is appointed in the said Act. Every person hereby appointed to seal or mark the said goods shall, before entering upon his duties, take an oath before a magistrate truly and faithfully to execute the powers and authorities contained in this Act, according to the best of his skill and knowledge. [Read 1ª this day, and the Lustring Company ordered to have notice thereof. (L. J., XV. 638). Petitions to be heard against the Bill were presented by the Lustring Company on 17 Jan. and the Weavers working for the Company on 22 Jan. (*ib.* 644, 648). On 29 Jan. Counsel were called in. *Sir Thomas Powys* (for the Lustring Company): 300,000*l.* a year went to France which is now made here. *Mr. Dobyns* (for same) read their reports on this case. Nahum Crosby, Renew, Henry Burton, and some others gave evidence, Renew stating they

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employed 15,000 if not discouraged. *Mr. Phipps* and *Mr. Serjeant Darnell* heard for the Weavers working for the Lustring Company. The latter said they starved thousands of Englishmen. The Weavers made these silks before. *Sir Bartholomew Shore*, for same: It is agreed they have made but 900 pieces, and have sold 15,000. They have opportunity to have goods from France by Ipswich, and to mark the French goods there. *Robert Hutting*, sworn: I made Lustrings in 1684—no great quantities—half a score pieces. It may be we were somewhat short of what they do now. *Mr. Tho: Holmes*, sworn: In '85 or '86 I knew Lustrings made. They were made in Spitalfields—about 15 or 20 pieces. Some of them were ordinary, others better. I did not see them in the loom. There came two Englishmen and offered them me. Four or five thousand pieces in a year. I have dealt in these 30 years. I do not contribute to carry on this Bill. *Oldham*: I made Lustrings first of any Englishmen. I went to Declue to know if he would dress them. *Marjar* [*? Maria*]: In '84 I made Alamodes in Spitalfields. I sold pieces to Mr. Holmes, and he asked me why I did not . . *Mr. Romane:* I came into England in '81. Not a denizen. I have dressed 3,000 pieces for the Company. In '86 I dressed. I was educated at Paris. I learnt to dress in England. Reads the answer to the letter. *Cha: Galiard* heard. *Mr. Moore:* I bought of Mr. Reneu. He sold them me for French. *Berringe* sworn. *Sam: Eccleston:* I have bought French Alamodes of Mr. Reneu—about 40 or 50 pieces. (MS. Min.) The Bill was then rejected (L. J., XV. 655).]

Annexed:—

(*a*) 17 Jan. Petition of the Royal Lustring Company for making and dressing Alamodes, Renforces, and Lustrings in England. Petitioners have a Patent for the making of plain black Alamodes and Lustrings in England for fourteen years, which was obtained by the consent and well-liking of the Weavers Company, at which time there were but one or two looms in England, and those were set up by the Patentees; since which Petitioners have increased them to about 700, and have now sent considerable quantities of the Woollen Manufacture to Piedmont, to furnish that country therewith, that the Duke of Savoy may the better be enabled to prohibit the commerce with France, from whence he has hitherto been supplied with the woollen manufacture. But Petitioners have many enemies to hinder them in the public good, those of Lyons in particular having resolved to use all possible means to destroy the said Company. Petitioners understand that if the Bill should pass it would destroy their Patent, and utterly spoil that trade, by means whereof that manufacture would return to France from whence it came, to the great joy and advantage of His Majesty's enemies, and the ruin of many hundreds of families in England now employed by Petitioners. Pray to be heard against the Bill. *Signed* Wm. Lewen, Dep. Govr., Paul Clowdesley, John Blondel, Wm. Sherard, Tho: Firmin, Peter Lekeux, E. Renen and Lewis Gervaise, Secy. [Read this day, and Petitioners heard on 29 Jan. L. J., XV. 644, 655. *See* Notes above.]

(*b*) 22 Jan. Petition of the Weavers working for the Royal Lustring Company in Lutestrings (*sic*) and Alamodes. Petitioners have been constantly employed by the Company for some years in the dull time of trade, to their great relief, there being no

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work for them to be found elsewhere. The Bill, if passed, would in all probability destroy the Company and reduce Petitioners to great necessity. Pray that the Bill may be dismissed, or that they be heard by Counsel against it. 452 signatures and marks are appended to the Petition. [Read this day, and Petitioners heard by Counsel on 29 Jan. L. J., XV. 648, 655. *See* Notes to principal paper.]

985. Jan. 14. Grahme *v.* Harnage.—Petition and Appeal of James Grahme. In February 1688 Petitioner purchased of Allan Bellingham and his trustees the manors of Levens, Barrowfield, Underbarrow, Stavely, Sledall, Strickland, and Melkinthorpe, and divers other manors, about 15 in all, in Westmoreland, together with the timber and timber trees on the six last-named manors, which, by Articles of 5 Feb. 1688, were to be valued by Sir George Fletcher, Bart., and Thomas Shepheard by a time limited, and, failing them, by an umpire chosen by them (with the exception of sufficient timber for repairs and other bootes in the purchased premises); and the amount of the valuation was to be paid by Petitioner to Bellingham, and devoted, in the first place, to paying off his creditors. Fletcher being a Member of Parliament and Shepheard sick, they never valued the timber or chose an umpire, and Respondents and other creditors of Bellingham obtained a Decree in Chancery for the execution of the trust, and the issue of a Commission to value the woods and timber; but the Court did not direct any trial or issue at law as to what was timber within the intent of the Articles or the usage of the Country. If the Petitioner refused to purchase at the valuation, the timber was to be sold to the best purchaser. The Commissioners did not certify the value of the timber; but Sir Miles Cooke, a Master of the Court, inspected the Depositions returned by the Commission, and valued the woods and timber at 2,399*l.* 19*s.* 3*d.*, allowing Petitioner only 91*l.* 19*s.* 3*d.* for all bootes for repairs &c. for all the manors and the farm tenants and customary tenants, who by custom claim the wood and timber upon their customary estates. Petitioner put in Exceptions to the Master's Report, one of which was that the wood was valued, as well as the timber, whereas the timber only was included in the Articles, and the wood had been already paid for with the manors; but his Exceptions were overruled on an offer by the Respondents to accept the Master's valuation, and, on Petitioner's refusal to buy, Respondents became purchasers at 2,300*l.*, and obtained an Injunction to protect them in cutting and carrying the wood and timber. Though limited to carry off all their bargain of timber by July next, Respondents have left the bulk of it standing until now, thus getting the benefit of three years growth, and have sold it with assurance of five years' further liberty to cut and carry it. They are also cutting timber in other parts of Petitioner's estate, and threaten not to leave a stick standing. Petitioner applied to the Court of Chancery, but could get no redress, as the Decree and the Order overruling his Exceptions were still standing. Prays that the Respondents (Richard Harnage, Jacques Wiseman, John Singleton, George Howes, Joseph Devonish, John Briggs, Richard Sutton, James Pawlett, William Smith, William Blinckhorne, and Peter Essington) may answer, that the said Decree and Order may be reversed, that the Respondents may cut only timber on the premises and neither wood nor timber on the rest of Petitioner's property, that they may not have any extension of time to cut and carry, and that a Commission may value the timber only. *Signed* by Petitioner, and *countersigned*

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Andrew Wharton, C. Lawton. L. J., XV. 640. [On 2 March the Cause was begun to be heard at the Bar, and *Sir Bartholomew Shore* spoke for the Respondents who have received the money and are not in the Appeal; and that those who have [been] paid their money ought to refund. *Mr. Jones* took the same objection. *Mr. Finch* and *Sir Thomas Powys* heard in answer. Counsel were asked whether, if the decree were reversed, the other parties would not be liable to refund. *Mr. Finch:* The estate will be sufficient to answer all! We think not. *Sir Barth: Shore:* They will be foreclosed, and can have no other way. They must refund without hearing. *Mr. Jones:* They must refund without question. The Court of Chancery cannot intermeddle in the matter. After debate, *L. C. J. Treby* was heard. It was agreed to tell Counsel that the House would not now proceed for want of proper parties. MS. Min.; L. J., XV. 689. Then the Respondents named in Annex (*b*) were added (*ib.* 691), and the Cause was finally heard on 16 March. *Mr. Finch* opens the case for the Appellant. He reads the agreement concerning the timber and timber trees. Mr. Graham comes in a purchaser, and the dispute is for this timber. *Sir Thomas Powys*, on the same side: The question is whether wood and timber are the same thing. Timber is the only thing to be valued. The Master in Chancery has taken upon him to value birch, elm &c. Trees are valued that we believe are not to be found in the woods. The Order, the Articles, the Master's Report, and the Exceptions are read. *Sir B. Shore* (for the accepting creditors): If the creditors have taken one stick that was not marked, they are liable. *Mr. Jennings*, on the same side: Four inches diameter is allowed to be timber in this country. Asked what is the value of the best timber trees in this bargain, he says, as he is informed, not above 5*s.* a piece. *Mr. Dobyns*, for the other Respondents: Mr. Graham might have appealed sooner. *Mr. Penton*, for Bellingham: If this had been valued aright, it would have yielded 4,000*l.* more. Col. Graham was offered his money and advantage. If the dispute had been made sooner, my client might have had a surplus of money. Col. Graham was privy to all. The creditors are not able to refund. Timber is not the same in one county as in another. The Colonel comes too late. He cannot make any better proof. Counsel heard for the trustees. After replies, Order made as in L. J., XV. 706. MS. Min.*]

Annexed:—

(*a*) 6 Feb. Answer of Richard Harnage, Jaques Wiseman, John Singleton, George Howes, Joseph Devonish, John Briggs, Richard Sutton, James Pawlet, William Smith, and William Blinkhorne, ten of the creditors of Allan Bellingham, Esq., deceased. Bellingham's estates in Westmoreland, Lancashire, Yorkshire, and Durham were vested in Charles Pidgeon, Esq., William Bellingham (Allan's brother and heir), and Robert Hilton, Gent., to be sold for payment of Bellingham's debts to Respondents and other creditors. Respondents, together with two other creditors, Daniel Allen and Peter Essington, purchased the wood and timber for 2,300*l.*, on Appellant's refusal to purchase them at the price fixed by the Master, and paid into Court the balance of the price, after deducting 1,000*l.* in satisfaction of their claims. They have been so obstructed in

* The House of Lords heard a cause between Col. Graham, privy purse to King James, and Mr. Harnage, Mr. Rigby, &c., and after a full hearing reversed the Lord Keeper's decree against Graham. Luttrell, 17 March.

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cutting the timber that several of the creditors have withdrawn from prosecuting their interest, and the delay has been occasioned entirely by the Appellant's opposition. Deny that they have sold the timber with assurance of five years time to cut and carry, but hope they will be allowed the customary time to do so. Appellant's Exceptions to the Master's Report were overruled after due discussion. *Signed* by Harnage, Smith, Singleton, Howes, and Sutton, and *countersigned* Ed : Jennings. *Endorsed* as brought in this day. *See* L. J., XV. 706.

(*b*) 3 March. Petition of Appellant. The hearing being appointed on 2 March, the House did not think fit to proceed with it until Francis Mollineux, Richard Rigby, Wm. Hudson, Jeremy Davis, John Bignall, William Phillipps, Richard Sill, Wm. Hart, and David Allen, also plaintiffs in Chancery, though not purchasers, and William Bellingham, Esq., brother, heir, and residuary devisee of Allan, Charles Pidgeon, Esq., and Robert Hilton, Gent., trustees of the said Allan and defendants in Chancery, should be made parties. Prays they may be made so. L. J., XV. 691.

(*c*) 9 March. Petition of the above named plaintiffs in Chancery, except Allen. Petitioners cannot obtain from one Richard Tolson, formerly their Solicitor, their papers to enable them to answer, though they hold his receipt in full for all claims against them. Pray he may be ordered to deliver up the papers, and for further time to answer. L. J., XV. 699.

(*d*) 10 March. Answer of Charles Pidgeon Esq. and Robert Hilton, Gent. Respondents have become only nominal trustees since their co-trustee William Bellingham exhibited a Bill in Chancery against them for an account of their trust, and are in no way interested in the litigation, though they do not refuse to act. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents, and *countersigned* John Ward. *Endorsed* as brought in this day. *See* L. J., XV. 706.

(*e*) 10 March. Answer of Francis Mollineux, Richard Rigby, William Hudson, Jeremy Davis, John Bignall, William Phillipps, Richard Sill, and William Hart. These Respondents refused to join the first ten Respondents in purchasing the wood and timber, and the trust has been fully performed in their case, so that they have nothing to do with the Appeal. *Signed* by Respondents, and *countersigned* Jam : Stedman, Ri : Osborne. *Endorsed* as brought in this day. *See* L. J., XV. 706.

(*f*) 11 March. Answer of William Bellingham Esq. Most of the creditors have been paid off or are being so. Respondent knows nothing about the way in which the purchasers have managed or disposed of the timber, and is not concerned in the matter ; but he has heard that the Appellant himself bought the Barrowfield timber for 500*l*. Appellant has his remedy at law in case of trespass, and has no ground of complaint against the Decree or Order. Prays that the Appeal may be dismissed with costs. *Signed* Hen : Penton. *Endorsed* as brought in this day. *See* L. J., XV. 706.

(*g*) 14 March. Several Answer of Peter Essington. Respondent married Margaret, Relict and Administratrix of Thomas Price, deceased, to whom Bellingham owed 55*l*. The Decree and Order appealed from are just and should stand. *Signed* by

Respondent, and *countersigned* P. Crawford. *Endorsed* as brought in this day. *See* L. J., XV. 706. 1695–6. —

(*h*) 14 March. Answer of David Allen. Bellingham owed Respondent 223*l.*, secured by a penal bond, which Respondent made over to Sir William Hicks as partial security for a larger debt. On being told that the timber belonged to the creditors, he was induced to sign a Letter of Attorney for cutting it down, which he revoked on learning that all the creditors were not to do the like. He refused to join in the purchase or sale of the timber, and is in no wise concerned in the Appeal. Prays that the Appeal may be dismissed with costs. *Signed* by the Respondent, and *countersigned* John Baggs. *Endorsed* as brought in this day. *See* L. J., XV. 706. No. 985.

986. Jan. 16. Sands' Estate Act.—Amended Draft of an Act for vesting a moiety of the Manor of Shepton Mallet in the County of Somerset, and a divided moiety of the Manor of Wells in the said County, in Trustees to be sold for payment of a mortgage charged thereon and for making a provision for the maintenance of Mary the wife of William Sandes, Esq., and her children. The Lords' Amendments consisted of the insertion of the names of Trustees. In the Commons the name of Richard Healy was added to the Saving Clause. [Read 1ª this day. Royal Assent 10 April following. L. J., XV. 642, 733. 8 Will. III. c. 62 in Long Cal. In Select Committee, on 24 Jan., a letter from William Sandes consenting to the Bill was read, and Mary Sandes consented in person. Com. Book.]

Annexed :—

(*a*) 24 Jan. Lords' Amendments made in Select Committee this day. Com. Book.

987. Jan. 17. Dawson's Estate Act.—Amended Draft of an Act for vesting part of the Estate of Joseph Dawson, Esq., in Trustees for payment of debts and for provision for the maintenance and marriage of his daughters. The Amendments made in Lords' Committee were to the following effect :—In the recital of debts a debt of 1,100*l.* to John Wilcox, gent., was added ; in the recital of the settled estates, and in the enacting part vesting them in Trustees, the closes of pasture called Great and Little Fenners and Fenner's Meadow, and South, North, and East Bowzers, in the occupation of George Waller, were added, and Sare's Marsh was left out ; and the names of the Trustees were inserted. The rest of the Amendments were merely formal. No Amendments in the Commons. [Read 1ª this day. Royal Assent 10 April following. L. J., XV. 643, 733. 8 Will. III. c. 64 in Long Cal. On 4 Feb. Mr. Palmer, Mr. Wilcox, Mr. Dawson, and Mrs. Dawson gave their consents to the Bill. Com. Book.]

Annexed :—

(*a*) 4. Feb. Lords' Amendments made this day in Select Committee. They are described above. Com. Book.

988. Jan 21. Writ of Summons (L. Byron).—Writ of Summons, dated 20 Jan. 1695–6, to William, L. Byron. [Sat first in Parliament this day. L. J., XV. 647.]

989. Jan. 22. Smith *v.* Dean of St. Paul's.—Petition and Appeal of George Smith and Margaret his wife. Petitioner Margaret's grandmother, Catherine Ferrers, being seized in fee of divers lands in Barnes, Surrey, which she had from her husband Edward Ferrers, settled some copyhold lands worth over 100*l.* a year on her eldest son William and his wife Susan, as her jointure, and the heirs of their bodies, with remainder to William's right heirs. William died, and

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Susan, his widow, their only child William being sickly, suffered a Common Recovery, in the Court of the Manor of Barnes, to the use of herself for life, remainder to her son William and the heirs of his body, remainder to the heirs of the survivor of her and her son, thus cutting off Petitioner Margaret who was youngest daughter of Edward Ferrers' second son Thomas, and thus, as the copyhold was of the nature of Borough English, entitled to succeed to her uncle William's property, failing his issue male. Lewis Rogle, a son of Susan by a second marriage, succeeded to the property, and Petitioner brought before the Dean and Chapter of St. Paul's, Lords of the Manor of Barnes, a Petition in the nature of a Writ of False Judgment to reverse the Common Recovery, which the latter refused to receive. Petitioner then applied to Chancery to compel them to do so, Lewis Rogle demurred, and his Demurrer was allowed by Lord Chancellor Jefferies. Appeal against the Order allowing the Demurrer, and pray that Lewis Rogle may be compelled to answer. *Signed* by Petitioners and *countersigned* Tho: Powys and Barth: Shore. L. J., XV. 648. [At the hearing, on 25 Feb., *Sir Thomas Powys* and *Sir Bartholomew Shore* appeared for Appellants, *Mr. Dobyns* for Rogle, and *Mr. Brodrick* for the Dean and Chapter. At the conclusion of the arguments the Judges were heard. *L. C. J. of the Common Pleas* stated the case. They stated as if the woman was tenant for life, but she was tenant in tail. And so she comes in; otherwise she had forfeited her life in it. He answered some other questions asked him as to Lords of Manors. After debate, Appeal dismissed. L. J., XV. 682. MS. Min.]

Annexed:—

(*a*) 5 Feb. Answer of Lewis Rogell.—The Common Recovery complained of was suffered 40 years ago, and the Demurrer allowed 10 years ago. Appellant's suit below was dismissed as unprecedented. The Appeal is contrary to the Standing Orders, being so long delayed, and would, if successful, avoid multitudes of seitlements. Prays the Appeal may be dismissed with exemplary costs. *Signed* by Respondent, and *countersigned* Wm. Dobyns. *Endorsed* as brought in this day. *See* L. J., XV. 682.

(*b*) 7. Feb. Several Answer of the Dean and Chapter of the Cathedral Church of St. Paul, London.—Dr. Stillingfleet, then Dean of St. Paul's, now Bp. of Worcester, and the Chapter answered below that they could not receive Appellant's Petition, as it was an attempt of the first instance, and in its nature dangerous to the common assurances of Copyhold estates; but they professed their willingness to do as ordered by the Court of Chancery, after hearing the real defendant Rogle. They are only concerned as Lords of the Manor, and pray their just rights and advantages as such may not be prejudiced, and that they be reimbursed their Costs. *Sealed* with the Seal of the Chapter. *Countersigned* St. John Brodrick. *Endorsed* as brought in this day. *See* L. J., XV. 682.

(*c*) 17. Feb. Petition of Respondents.—The Appeal is vexatious. Pray for a day for hearing. *Signed* Lewis Rogell. Read this day. L. J., XV. 672.

990. Jan. 24. Barkhamstead Manor Act.—Amended Draft of an Act to enable Trustees to sell part of the Manor of Barkhamstead and to pay off the Incumbrances charged on the same, and to lay out the overplus in an Estate to be settled as the said Manor is now vested. Amend-

ments made in Lords' Committee on 29 Jan. consisted chiefly in the insertion of the names of trustees. No Amendments in the Commons. [Read 1ª this day. Royal Assent 13 Feb. L. J., XV. 650, 668. 7 & 8 Will. III. c. 20 in Long Cal. *See also* Com. Book, 29 Jan.]

Annexed:—

(*a*) 29 Jan. Lords' Amendments made in Select Committee this day. Com. Book.

991. Jan. 24. Trade with France Prohibition Bill.—Commons' Engrossment of an Act for continuing the Acts for prohibiting all trade and commerce with France, and for the encouragement of Privateers.*

Whereas, by an Act made in the fourth and fifth years of the reign of King William and Queen Mary, intituled an Act for continuing the Acts for prohibiting all trade and commerce with France, and for encouragement of privateers, sufficient encouragement for privateers, or for the captains, officers, or others commanding or serving in their Majesties' ships of war, was not enacted or provided, May it therefore please your most Excellent Majesty that it may be enacted &c. That the said Act intituled An Act for continuing the Acts for prohibiting all trade and commerce with France, and for encouragement of privateers, (except so much thereof as doth enact the continuing the said Acts for the term therein mentioned) be, from and after the first day of April in the year of our Lord one thousand six hundred ninety six, repealed, annulled, and made void to all intents and purposes whatsoever, which said Acts thereby continued, and everything therein contained, except what hereby is altered or otherwise enacted, shall be and continue in force for the term of three years from the said first day of April, One thousand six hundred ninety-six, if the present war with France shall so long last, and from thence to the end of the next Session of Parliament after the expiration of the said three years.

And be it enacted, by the authority aforesaid, that all ships and vessels with their ladings, and all goods and merchandizes that shall be taken or seized as prize by any of his Majesty's ships of war, or by any ship or ships set forth as privateer or privateers, or otherwise, shall be imported and brought into some port of his Majesty's dominions, and immediately without breaking of bulk put into the possession [of his Majesty's Commissioners of the Customs or their officers or agents in the said port, who] *and custody of such persons as his Majesty shall appoint and constitute Commissioners for receiving, selling and disposing of prize ships and goods, or their officers and agents in the said port; who shall and are hereby ordered in all points strictly to observe the directions of this Act, together with such rules and instructions for the better performance of their duty as shall from time to time be given them by the Lord Treasurer or Lords Commissioners of the Treasury and Lord High Admiral of England or the Commissioners for executimg the office of Lord High Admiral for the time being and approved of by his Majesty in Council, which Commissioners constituted as aforesaid, or their officers and agents*, together with two or more such persons as the officers or mariners of the respective ships shall intrust, are to take care of and preserve the same from embezzlements until such time as the same shall be adjudged lawful prize, except where it shall appear to the Judge of the Admiralty that the goods taken

* The Lords' Amendments (*see* C. J., XI. 534) in Committee (Com. Book, 11, 14, 17, 19, and 25 Feb., and Annexes (*a*) (*b*) and (*c*) to No. **994**), are incorporated in the text, the omissions being marked by square brackets, the additions by italics.

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are perishable; in which case the said Judge shall take bail for the said goods, [in] *or* order [to] the sale thereof, as he might have done before the making of this Act, yet so as to be subject to such manner of sale [and distribution] as is particularly provided by this Act.

And be it enacted that, as soon as conveniently may be after any ship, vessel, goods, and merchandize, taken by any of his Majesty's ships of war, shall be adjudged lawful prize as aforesaid, or ordered to be sold by the Court of Admiralty, the same shall, by virtue of a Commission to be issued out of the Court of Admiralty and directed to the Commissioners [of his Majesty's Customs] *constituted as aforesaid, or their officers and agents*, and the Commander of such ship of war, or any other person or persons by him appointed under his hand and seal, *or in default of such appointment by the said Commander to such persons as the Court of Admiralty shall nominate in his behalf*, be sold by inch of candle to the best advantage, public notice being first given of the quantities and qualities thereof, and of the time and place of such sale, at least one and twenty days before the time of such sale, at the Royal Exchange in London, and the most public place in the said port where such prize is to be sold, an account of which sale shall be forthwith transmitted to the Court of Admiralty by such persons by whom such sale shall be made, and the produce thereof, after the Customs and other duties are paid, shall be divided into eight equal parts, three of which eight parts shall be and remain to his Majesty (unless such man of war shall be under the command of a flag-officer or commander in chief of a squadron, and in such case one fourth part of the said three eighth parts to be and remain to the said flag officer or commander), one other eighth part to be equally divided between the Chest at Chatham for the relief of sick and wounded seamen and the Master Brethren and Assistants of Trinity House for the relief of the widows, children, and parents of persons slain in his Majesty's service, and the other four eighth parts shall be paid to the Treasurer of the Navy, to be by him distributed and divided within fourteen days next after receipt thereof in manner following, (that is to say) one of the said four eighth parts to the captain of the said ship, one other of the said four eighth parts to the commission and warrant officers, masters, mates, and pilots, and the other two of the said four eighth parts to and among the rest of the inferior officers, seamen, and soldiers, or to their attorney or attornies authorized to receive the same, on board such ship when such prize was taken. But, if such prize ship so taken by a man of war and condemned, as aforesaid, shall appear to be a French privateer, *employed only as a privateer and not loaden with any sort of goods or merchandize*, the same shall be sold by the captain of the ship which took the same, or some person or persons by him appointed, and the whole money arising from such sale (except so much thereof as shall be expended in proceeding against such prize in [the] *any* Court of Admiralty [or elsewhere]) shall be divided and distributed between and among the captain, officers, masters, pilots, seamen, and soldiers serving on board the said ship when such prize was taken, and the flag-officer or commander-in-chief, in and by such share and proportions as is herein before directed and appointed.

And be it further enacted that, if such prize ship or vessel shall be taken or surprized by any privateer or privateers and condemned, as aforesaid, be the same privateer or merchant's ship, the same, together with the goods and merchandize therein, and the anchors, cables, rigging, tackle, guns, ammunition, furniture, and apparel belonging to such ship or vessel, shall be and remain to the captain and persons interested in such privateer or privateers without

payment of the tenth of the value of such goods or merchandize, ships or vessels so made prize, or any other sum or sums of money, to the Lord High Admiral of England, or the Commissioners for executing the Office of Lord High Admiral for the time being, or any other person or persons whatsoever, except the usual Customs, impositions, and other duties which are hereby intended to be paid for all prize goods and merchandize taken as well by privateers as men of war [and brought into England], in the same manner as other goods and merchandize do, and under the same penalties and forfeitures for not doing thereof as other goods and merchandize are by law liable to, provided that the same be inventoried and appraised, and that an account of the product and sale thereof be forthwith given to the Court of Admiralty.

And, for a further encouragement to all captains, officers, or others commanding or serving in any of his Majesty's ships of war, and to all his Majesty's subjects that shall fit and send out any private ship or ships of war during this present war, Be it enacted that, if any of his Majesty's said ships or privateers shall in fight take, sink, fire, or otherwise destroy any ship of war or private man of war of or belonging to the French King, or any of his subjects, or of any other in the actual service of the French King, the captains, officers, seamen, and soldiers of such ship or ships of war, and the captain and persons interested in such privateer, shall receive for a reward forty shillings per ton and ten pounds for every gun mounted in any such ship so taken, sunk, fired, or destroyed, be the gun in either of the said cases iron or brass, to be paid by the *Commissioners constituted as aforesaid out of his Majesty's part of the prizes, and, if they shall not have sufficient money in their hands, then by the* Receiver General of his Majesty's Customs out of the money that shall be in his hands for the *Customs of the* goods of his Majesty's subjects or of others rescued from the enemy [And out of his Majesty's part of the prizes] ; of all which the Commissioners of his Majesty's Customs are hereby required to keep a distinct account.

Provided that, if the prize be a French man of war and taken by one of his Majesty's ships of war or hired ships in his Majesty's pay, the orty shillings per ton and ten pounds per gun shall be in lieu of all shares of such French ship, her tackle, apparel, furniture, provision, and stores, it being the true intent and meaning hereof that the same shall be adjudged to his Majesty and delivered to the Commisssioners of the Navy.

And be it further enacted, by the authority aforesaid, that if any ship or vessel shall be taken as prize *to the southward of Cape Finisterre* by any of his Majesty's ships of war or privateers, and carried into *Cales or* any place or port [beyond the seas] *within the Straits of Gibraltar*, such prize notwithstanding shall be adjudged in the High Court of Admiralty of England ; but yet it shall and may be lawful for such person or persons residing in the Mediterranean, or other parts abroad, as shall be by Commission from his Majesty or the said Court of Admiralty empowered in that behalf, to examine witnesses and papers, and, according as the case shall appear to him or them, to proceed so far in the cause as to appraise and deliver such prize [either to the captor or] *to the* claimer upon bail to stand to the determination of the said Court of Admiralty, to whom all the examinations and papers are to be forthwith transmitted, that the cause may be determined.

And be it further enacted that, if any ship or vessel, goods, or merchandize of any of his Majesty's subjects, taken by the enemy, shall be re-taken by any man of war, privateer, or other ship, boat, or vessel

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before the same shall have been carried unto any of the enemy's ports or fleets commanded by a flag-officer, or condemned as prize in any Admiralty Court, and the owner or owners thereof shall make sufficient proof of the property thereof, the same shall be restored to the owner or owners, paying salvage, if re-taken by a man of war one sixteenth part of the true value thereof to be wholly divided amongst the captain, officers, seamen, soldiers, and commanders-in-chief, in such proportion as before is directed in other cases, but, if re-taken by a privateer, then to pay for salvage one eighth part of the true value of such re-taken ships, goods, and vessels, clear of all charges.

And be it further enacted that the shares of prizes taken and reward hereby given to the commanders, officers, seamen and soldiers serving in any of his Majesty's ships of war shall be in lieu and full satisfaction of all shares of prizes by them taken, as well in fight as otherwise, during the present war, any thing in an Act made in the thirteenth year of the late King Charles the Second, intituled Articles and Ordinances for the regulating and government of his Majesty's Navy, ships of war, and forces by sea, or any declaration or orders of his Majesty, to the contrary notwithstanding.

[And be it further enacted that all ships, derelicts, and vessels, taken since the beginning of this present war by any of his Majesty's men of war, privateers, or otherwise, and condemned as lawful prize or derelicts, or which shall be so taken and condemned although foreign built, shall be esteemed and adjudged free, and have the privilege of English ships, the owners and proprietors of such prize ships or vessels paying such duties as have been heretofore used and paid for the making and allowing prize ships free ships of England, any law, statute, or usage to the contrary in any wise notwithstanding.]

And, for the encouragement of fitting out large privateers, the better to annoy the enemy, Be it enacted that, when a prize shall be taken or re-capture made by two or more private men of war in company, the same prize or salvage for re-capture shall be divided amongst the said privateers, in proportion to the number of guns and men in them at the time of capture and re-capture; Provided that no gun on board such privateer shall be esteemed within the meaning and intention of this Act, unless such gun shall be mounted, and weigh four hundred weight, and carry a three pound ball, and that two patereroes well fixed, each with two chambers, shall be esteemed as one gun.

Provided always and be it enacted that, if any captain, officer, mariner, seamen, or others, belonging to any of his Majesty's ships of war or privateers, shall embezzle, purloin, conceal, and convey away, or cause or procure to be embezzled, purloined, concealed, or conveyed away, any part of the rigging, tackle, sails, furniture, or apparel of any prize ship or vessel, or any part or parcel of the goods or merchandizes taken [in the hold or between decks laden upon freight of such prize] *therein*, and sufficient proof be thereof made in the Court of Admiralty, the persons so offending, and every of them, shall forfeit their respective shares of such prizes and treble the value of such goods and merchandizes, tackle, furniture and apparel so embezzled or purloined, and suffer six months' imprisonment, without bail or main-prize, which said forfeitures or embezzlements, in case the prize shall be taken by one or more of his Majesty's ships of war, and condemned, shall be divided and go, one moiety thereof to the informer, and the other moiety thereof to his Majesty. If taken by one or more privateers and condemned, then one moiety thereof to the informer and

the other moiety thereof to the owner or owners of such privateer or privateers, paying the duties and customs for such goods and merchandizes so embezzled. But, if such prize shall not be condemned but restored, then the whole forfeiture shall be and go to the person or persons to whom such ship or vessel shall be restored. All which said forfeitures shall be recovered in the Court of Admiralty, or in any of his Majesty's Courts of Record at Westminster, by bill, plaint, or information, wherein no essoine, protection, privilege, or wager of law, nor more than one imparlance, shall be allowed.

And be it further enacted that, in case any ship or vessel, or any goods or merchandizes of the growth, manufacture, or product of the dominions of the French King, shall be taken by any privateer, privateers, or otherwise, fraudulently by consent or collusion, the said ship or vessel, goods, and merchandizes so taken, as likewise *the whole of the respective shares of* such privateer, privateers, boat, or vessel by which the same shall be so fraudulently taken *with the privity of the owner or owners*, upon proof thereof in the Court of Admiralty, shall be declared and adjudged to be good prize and forfeited, one moiety thereof to his Majesty, and the other moiety to the informer who shall discover the same. And, [in case such ship or vessel, goods, or merchandize, as aforesaid, shall be taken fraudulently by consent or collusion of the commander or captain of any of his Majesty's ships of war, such commander or captain shall forfeit double the value of such ship or vessel, goods, or merchandize so taken, one moiety thereof to his Majesty's use, and the other moiety to the informer, to be recovered by action of debt, bill, plaint, or information in any of his Majesty's Courts of Record, wherein no essoine, protection, privilege, or wager of law, nor more than one imparlance, shall be allowed ; and the said goods and merchandize, ship or vessel, tackle, furniture and apparel, guns and ammunition, so taken by consent, fraud, or collusion, shall be and is hereby adjudged to be good prize unto his Majesty.

And be it further enacted that the captain or commander in chief of any of his Majesty's ships of war or privateers, who shall so take any prize by consent, fraud, or collusion, and be thereof lawfully convicted, shall suffer twelve months' imprisonment without bail or mainprize, and for ever after be incapable to serve his Majesty in any place or office whatsoever.] *that the recognizances or the bonds entered into by the captain or captains of such privateer or privateers and his or their sureties be declared to be forfeited and immediately put in execution according to the course of proceedings in the Court of Admiralty.*

And be it further enacted that, when any commander of a privateer or other vessel shall seize as prize and bring in any ship or vessel which upon trial shall be cleared, such commander of the privateer or other vessel, together with the said ship or vessel, shall be answerable for and liable to make good to the claimers all embezzlements suffered by such ship or vessel brought up as aforesaid, to be recovered, together with costs of suit, in the said Court of Admiralty.

Provided always, and it is hereby declared and enacted, that nothing herein contained shall be taken or construed to alter or make void any article, matter, or thing contained in any league, truce, or treaty, now or which shall be in force between his Majesty or any other Prince, State, or Government whatsoever.

And, for the encouragement of such persons duly authorized [by the Commissioners of his Majesty's Customs] as shall make discovery

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and seize any goods of the growth, product, or manufacture of France imported into any of his Majesty's dominions contrary to the true intent and meaning of this present Act, Be it enacted, by the authority aforesaid, that all such goods so imported* and seized shall be [sued for and prosecuted in his Majesty's Court of Exchequer in such manner and form as is provided by an Act made in the thirteenth and fourteenth years of the reign of the late King Charles the Second, intituled An Act for preventing Frauds in his Majesty's Customs;] *proceeded against and condemned in the Court of Admiralty*; two thirds of the said goods to be for the use of his Majesty [his heirs and successors] *as perquisites of the Admiralty* (they defraying the charge of the prosecution of such goods), and one third to the prosecutor, and no composition to be made for his Majesty's part upon any pretence whatsoever. All the said goods to be secured and sold in such manner as prize goods are by this Act appointed to be secured and sold, any law or statute to the contrary notwithstanding.

Provided always that every sum or sums of money paid into the Treasury of the Navy by virtue of this Act shall be forthwith certified by the Treasurer, his cashier, or paymaster, to the Commissioners of the Navy, who are to charge him therewith, and to discharge him by the payments duly made on the muster books or pay books to the parties entitled to the several proportions before mentioned.

+ *And, for preventing abuses practised by privateers pretending to take as prize ships or vessels being within his Majesty's ports, rivers, or havens, Be it enacted that, where any ship or vessel shall be taken in any of his Majesty's ports, rivers, or havens, by any privateer, such prize upon condemnation thereof shall be and belong wholly and entirely to his Majesty as a perquisite of the Admiralty of England, and the said captors to have such part or proportion thereof only as his Majesty shall think fit to allow.*

Provided always that this Act or anything therein contained shall not disannul, alter, or prejudice the just rights, customs, liberties and privileges of the Cinque Ports, and the towns and members thereof, or the rights, authority, and jurisdiction belonging to the office of Lord Warden and Admiral of the Cinque Ports, [subject nevertheless to the rules and directions in this Act, and so as the said Lord Warden and Admiral shall not have any other or greater share in any prize taken within the jurisdiction of the Admiralty of the Cinque Ports than what is herein reserved or appointed to his Majesty within the jurisdiction of the Admiralty elsewhere, according to the limitations, directions and distributions of this Act, and not otherwise] *anything in this Act to the contrary notwithstanding.*

ϕ *Provided always, and be it enacted by the authority aforesaid, that this present Act shall commence on the first day of April, one thousand six hundred ninety six, and continue in force from that day for the term of three years, if the present war with France shall so long last, and from thence to the end of the next Session of Parliament. And, whereas some doubt hath arisen when the aforesaid Act of Parliament, intituled An Act for continuing the Acts for prohibiting all trade and commerce with France and for the encouragement of privateers, was intended to commence, Be it declared and enacted by the authority aforesaid, that the said Act was not intended to commence and did not commence before the fourteenth of March, one thousand six hundred ninety-two; provided that nothing in this Act shall null or make void the last*

* In Com. Book "imported, landed."

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sentences given concerning the ship Young Prince and the ship La Modeste, otherwise called the Gilbert or Dartmouth Merchant. And be it further enacted that, where any ship or vessel shall be taken as prize in the West Indies or America, it shall be lawful for the captors to carry such ship or vessel into any of his Majesty's ports in any of his islands or plantations there, and to put the same into the possession of the Chief Governor of such respective islands or plantations, there to remain and be kept as aforesaid until the same shall be condemned or discharged, or otherwise lawfully disposed of, by such persons as shall be lawfully commissioned in that behalf. And be it further enacted that, in case any ship or vessel shall be taken as prize in the East Indies, or in any place beyond the Cape of Good Hope, it shall be lawful for the captors to carry such ship or vessel into any port or place where any English factory is established, and to put the same into the possession of the Governor or chief person of the said factory, to be preserved, as aforesaid, until condemnation by such persons as shall be lawfully commissioned in that behalf.

Parchment Collection. [Brought from the Commons and read 1ª this day. (L. J., XV. 650.) On Jan. 31 counsel were heard at the Bar upon the Petition of Merchants trading to the Eastland Countries and others (No. 994). *Sir Thomas Powys:* This Bill overturns several treaties that have been made in relation to trade. As this Bill is, when any ship is seized, she must be put into the custody of the Custom House Officers. The mariners will be turned out before the trial. This is very hard. The master and mariners must be turned out. The perishable goods are to be sold and the owners not made parties to it. There is a clause empowers the Commissioners of the Customs to unload perishable goods upon the capture. 1670, Denmark Treaty. In '67 with the States General. *Sir Bartholomew Shore:* The grievances our clients have lain under were from the Commissioners of Prizes. We think it worse than the other Commissioners, [the Commissioners of] Customs. It is put into those hands without any security to the traders. '67, '74 treaties. It is put into the hands as the Custom House Officers appoint. No provision for abuses committed by privateers in ports. (MS. Min.) Then the Bill was read 2ª and committed to C. W. H., and the clerks were ordered to search precedents for the House giving Instructions to a Committee of the whole House. (MS. Min.; L. J., XV. 656.)

On Feb. 7 the Clerks produced two precedents. The House then went into Committee with L. Ferrers in the chair. The Bill was considered, and referred to a Select Committee, with an Instruction to the Committee to take care that nothing in the Bill be prejudicial to foreign treaties. The Committee to have power to send for Sir Charles Hedges and other persons, an Order being made for Sir Charles to attend and prepare any new clauses for encouraging privateers. (MS. Min.; L. J., XV. 663.) The Committee, with E. Rochester in the Chair, considered the Bill on Feb. 11, 14 & 17, made various amendments (indicated above), and postponed certain clauses, so far as they related to the Commissioners of Customs.

On 11 Feb. it was agreed to insert a clause providing that the Act should continue for three years, and another declaring the time of the commencement of the last Act. (*See* Annex (*c*) to No. 994.)

On 14 Feb. a clause was ordered to be drawn up giving to the King all men of war captured by men of war, paying for guns &c., and another for privateers to carry their prizes to be tried in the Plantations.

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On 17 Feb. the proposed proviso (*See* Annex (*b*) to No. 994) relating to the Cinque Ports was postponed till Lord Romney should be present. It was Ordered that the House be moved that the Commission of Prizes be laid before the Committee (*see* L. J., XV. 672), and Sir Charles Hedges brought up clauses drawn by him.

On 19 Feb. the last clause relating to the Warden of the Cinque Ports is read. *Sir Charles Hedges* speaks to the inconvenience of the clause as it is. *Mr. Dobyns* (for the Lord Warden).—This is no enacting clause, it only saves our right. *Dr. Littleton* (for the Admiralty).—This clause takes away that that is inherent in the Lord Admiral, and gives it to the Lord Warden. It is implicitly an enacting clause. A memorandum is made that the House be moved, on reporting the Bill, that the words ("together with costs of suit") may be left out. The Commissioners of Prizes, in pursuance of the Order made by the House on the 17th (L. J., XV. 672), lay before the Committee their Commission, dated 27 Sept., 6 W. & M., which is read. They are asked what instructions they have had from the King in relation to prizes. *Sir Roger Langley.* We never had any instructions from the King other than the Commission. *Question:* By what authority take you prizes? *Sir Roger:* Our authority is from the Commission, or from Decrees of the Admiralty. They act by virtue of the Act of Parliament relating to privateers. Before that, they acted by virtue of a declaration or proclamation. They are directed to bring the declaration or proclamation and the first Commission on Saturday. On 22 Feb. the Commissioners of the Prizes shew their first Commission. They say they had no other Commission. Both are given to them back. They give in a printed declaration, dated 23 May 1689, which is read and returned to them. *Agreed* that the Commissioners of the Customs throughout the Bill be left out, and Commissioners of Prizes be instead thereof, and the said Commissioners to be subject to the instructions of the Admiralty, and Sir Charles Hedges to prepare clauses to that purpose against Tuesday next, and to have the Bill and amendments with him. On 25 Feb. *Sir Charles Hedges* offers some amendments to the Bill, which, being read in the several places where they are to be inserted, are agreed to. (Com. Book.) The Bill was reported, and the amendments agreed to, on the same day. (L. J., XV. 682.) On 28 Feb. it was returned to the Commons. (*Ib.* 686.) On 6 April the Lord Privy Seal reported from the Conference that they had received the Commons' reasons (*See* Annex (*d*) to No. 994) for disagreeing to certain of the Lords' amendments. (L. J., XV. 728.) On 14 April the House decided to insist upon the first amendment, and a Committee was appointed to draw reasons for insisting upon this and certain other amendments. (*Ib.* 735.) On 17 and 22 April the House ordered that the said Committee should be revived, and that Sir Charles Hedges and some of the Commissioners of Customs should attend. (*Ib.* 738, 741.)

On 23 April the Committee met; E. Torrington in the chair. The Commissioners of the Customs and Sir Charles Hedges are present. The Commissioners say their whole time at the Custom House is taken up about the Customs, and if this work should be put on them the service would suffer. That the Officers of the outports that are now employed have pay from the Commissioners of the Prizes. The multiplication of duties by new Acts takes up so much time that they shall not be able to execute the business of Prizes; and, if new offices be added to them, they must divide themselves, and they should then be a sort of Commissioners of Prizes by a new name. Reasons

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were agreed on for the Lords insisting on several of their amendments which were ordered to be reported. (Com. Book.) On 24 April the Reasons (Annex (*e*) to No. 994) were reported by E. Torrington and upon debate recommitted to the same Committee for further consideration ; the Committee to meet on April 29. (L. J., XV. 744.) No further proceedings, the prorogation taking place on April 27.]

992. Jan. 25. Chamberlain's Estate Act. — Draft of an Act to enable Trustees to exchange lands of Sir James Chamberlain, Bart., an infant, lying in the Common Hill or Field of Salford in the County of Oxon, for like quantities of lands there, in order to the making an inclosure. No Amendment in either House. [Read 1ª this day ; Royal Assent 7 March. L. J., XV. 652, 697. 7 & 8 Will. III. c. 30 in Long Cal. *See also* Com. Book, Feb. 1, 5.]

Annexed :—

(*a*) 5 Feb.—Letter from Dame Margaret Chamberlain, mother of Sir James, to Mr. Anthony Ward, Furnival's Inn, consenting to the Bill. *Dated* Salford, 1 Feb. 1695–6. [Read this day before the Select Committee. Com. Book.]

993. Jan. 25. Small Tithes Recovery Act (7 & 8 Will. III. c. 6). —Draft Proviso, as follows :—Provided always and be it enacted that no person or persons hereafter shall be excommunicated for or by reason of his her or their withholding or refusing to pay any small tithes not exceeding forty shillings. *Endorsed* as offered this day to be added to the Bill, and rejected. MS. Min.

[The Bill came up from the Commons on 16 Jan. (L. J., XV. 642), and was considered this day in C. W. H., when the Title and Preamble were read and postponed ; the first enacting Clause read and agreed to ; the several Clauses in the Bill read and agreed to, as to small tithes ; the above Proviso offered, read, and rejected ; the next Clause read and agreed to, concerning removal out of the County (§ 10) ; the Clause concerning dividing the last year's tithes to the next Incumbent by the Justices agreed to be left out. The other Clauses read and agreed to. A Proviso (Annex *a*) was offered and agreed to. After (Costs) [§ 13] add Clause A (Annex *a*). The last Clause read and agreed to. Preamble & Title agreed to. The motion to recommit the Bill on 27 Jan. was negatived by 33 votes and one proxy to 30 votes, Tellers E. Sandwich and E. Thanet. (MS. Min., Jan. 25, 27.) The Bill received the Royal Assent on 13 Feb. (L. J., XV. 668).]

Annexed :—

(*a*) 25 Jan.—Paper containing a rough draft and fair copy of a Proviso offered and added this day to the Bill as Clause A. It forms § 14 of the Act. MS. Min.

994. Jan. 25. Trade with France Prohibition Bill.—Petition of several Merchants trading to the Eastland Countries whose names are subscribed, on behalf of themselves and divers other merchants, praying to be heard by Counsel against the Bill, which would, if it passed as it is now worded, be a great prejudice not only to Petitioners, but to Trade in general. *Signed* Theodore Jacobsen, Will. Benson, Robt. Bloome, Tho : Stiles, Paul Darby, Peter Joye, David Debary, and Josh. Martin. [Read this day, and Counsel ordered to be heard. L. J., XV. 652. *See* No. **991**.]

Annexed : —

(*a*) 25 Feb.— Lords' Amendments to the Bill. C. J., XI. 534. *In extenso.* [Made in Committee, 11, 14, 17, 19, and 25 Feb. (Com. Book), and reported this day (L. J., XV. 682). *Noted*

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in margin are the Resolutions of the Commons agreeing or disagreeing with them, and the Resolutions of the Lords insisting on or desisting from them].

(*b*) 25 Feb.—Engrossed Proviso, marked +, incorporated in text of No. 991. [Added in Committee, before the Clause relating to the Cinque Ports, on 17 Feb. (Com. Book), and reported and ordered to be engrossed this day. (L. J., XV. 682.) Disagreed to by the Commons on 27 March. (C. J., XI. 534.)]

(*c*) 25 Feb.—Engrossed Clauses, marked ϕ, incorporated in text of No. 991. [Added in Committee at the end of the Bill on 17 Feb. (Com. Book), and reported and ordered to be engrossed this day. (L. J., XV. 682.) Agreed to by the Commons. (C. J., XI. 534)]

(*d*) 6 April.—Commons' Reasons for disagreeing to fourteen of the Amendments made by the Lords. [Agreed to by the House of Commons 3 April (C. J., XI. 543, *in extenso*), and communicated to the Lords at the Conference this day. (L. J., XV.728).]

(*e*) 24 April.—Lords' Reasons for insisting upon eight of their Amendments. [Reported from the Committee appointed to prepare reasons by E. Torrington this day, and recommitted to the same Committee (L. J., XV. 744).]

995. Jan. 27. Oldys *v.* Domville.—Copy of Writ of Error and Transcript of Record brought in this day (L. J., XV. 653), with Tenor of Judgment given 10 March attached. (L. J., XV. 701, *in extenso*). William Oldys, Doctor of Laws, King's Advocate in the Earl Marshal's Court of Chivalry, brought a suit in that Court before Henry Duke of Norfolk against Charles Domville for having infringed the rights of Henry St. George, Knt. and Clarencieux King of Arms, by painting a coat of arms for the coffin of the wife of one Barkstead of Chelsea, to which the latter had no right, and marshalling her funeral in August 1691, and the same for Elizabeth Godfrey, daughter of Michael Godfrey of Woodford, and for William Sprignoll at Highgate in the same year. The Court of Exchequer granted a prohibition to stop the proceedings of Oldys in the Court of Chivalry, and the Writ of Error was brought to reverse the Judgment of the Court of Exchequer. [On 22 Feb., at the Hearing, *Mr. Serj. Darnell* opened the cause. This is the same Court which was held before the Constable and Marshal. He cites precedents of holding the Court before the Earl Marshal. Courts of Honour have been held for 160 years back. L. Howard, Hen. VIII. 172, Tho : Howard. The Earl Marshal alone may hold his Court as well as if a Constable. Sidefin's Rep., 363. Dent 25, Q. *Mr. Beresford* for Plaintiff: Your Lordships have vindicated the honour of this Court by committing persons that did not obey it. If a man comes here and wages war, he can be tried only in the Marshal's Court. The question is whether the Court held before the Earl Marshal is not as large and powerful as before the Constable, and whether this matter is not only cognizable before that Court. Dr. Sutton's Case. The main point is whether a prohibition lies to the Court of Honour from any other Court whatsoever. About 600 years the title of Marshal has been honourable. The Court of Constable and Marshal runs into the Counties Palatine. Hub. Rep., 63. They cannot produce one precedent of a prohibition to the Court of Honour. The King's writs do not run in the County Palatine of Chester. The Court of Star Chamber sat without the jurisdiction of other Courts. He cites several cases. Spelman's Glossary, 447. *Sir Bartholomew Shore*, for Domville : There is nothing in this case

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that the King's honour is concerned in. The question is, Sir Henry St. George pretends only to marshal a funeral. My client has a pall, and lets it out for 20*s*. Sir H. St. George says, I should have had 20*l*. As to the question whether there be any such Court as Earl Marshal's in being, we say there is none. The cases cited by the other Counsel say there is not also. 4 Inst., 125 ; 1 Inst., 74. The Constable is the chief. In all the statutes that relate to it, it is so, before the Constable and Marshal. We say the statutes take notice of it as a Court at Common Law. We have declarations of Parliament that the Privy Council is not a Court of Law. We insist a prohibition does lie to this Court. It is but a limited jurisdiction. Prohibitions are daily granted to the Court of Chester and other Palatines. They grant prohibitions to the Admiralty and other Courts. Rolls Ric., 313. Dr. Gouge's Case. *Mr. Phipps*, on the same side : We say the Earl Marshal alone cannot make a Court. Let them show where ever the Earl Marshal had power by law. They have no power by Act of Parliament, we say. The Appeal slept for want of a Constable. Then it was *ordered* That the Speaker report what was said this day on Wednesday next, and the Judges to attend, and D. Norfolk to have Counsel if he think fit.—On 4 March the Speaker (L.C.J. of Common Pleas) reported what Counsel had offered at the Bar, and the House went into debate of this matter. *D. Norfolk* moved for a day to be heard to satisfy the Judges that he has a right to hear and judge in these cases. *Question proposed*, Whether the Earl Marshal's Court is now the same as it was when there was a Constable and Marshal joined ? Whether the King's Bench does not send prohibitions upon causes that come before themselves ? *Proposed* to consider whether it be in the power of the Privy Council to direct a Privy Seal or not ? *L.C.J. King's Bench :* The question is whether the Act of 16 Car. II., that takes away the Star Chamber, takes away this clause of the Privy Seal. I desire some time to see the Privy Seal, whether it was before the Council as a Court of Common Law. *D. Norfolk* says his Counsel shall attend the Judges. Judges then ordered to be heard on 9th. —On 10 March *L.C.J. King's Bench* heard : Six of us met, and we are of opinion that the Act of Rich. II. is repealed by the Act of 16 Car. II. (He gives their reasons for it) : So there can be no proceeding in relation to the Court of the Earl Marshal. If this prohibition be not allowed, the Subject has no remedy. The House went into debate of this business. Judges heard as to what Courts they send prohibitions. If any Court whatsoever exceeds its jurisdiction, we send prohibitions, as to the Court of Admiralty or other Courts ; and this the Common Law directs us, though they be new Courts, and into Counties Palatine. After Debate, Judgment affirmed.* MS. Min.

Annexed :—

(*a*) 12 Feb.—Petition of William Oldys, Doctor of Laws, the Plaintiff, for a day for hearing. L. J., XV. 667.

* This day the Lords . . . debated the Duke of Norfolk's case with the herald painters, and gave it against his grace. Luttrell 10 March.

1695-6. 996. Jan. 28. ACCOUNTS COMMISSIONERS.—Book entitled, The

No. 996. Page 1. the Feast of St. Michael 1694 and

RECEIPTS. The GENERAL ACCOUNT for the Year 1695.

	£	s.	d.	£	s.	d.	£	s.	d.
Remains of Cash at Michaelmas 1694 :—									
At the Exchequer, page 3	197,245	10	5						
At the Custom House on Coinage, page 23	3,445	1	2¾						
At the Excise Office, including the Balance of Salt.	21,010	17	9½						
At the Post Office	752	3	2						
				222,453	12	7¼			
More charged to the Exchequer, but not allowed there till the week after Michaelmas 1694, viz. :—									
At the Custom House on Customs	4,779	19	3¾						
On Coffee and Tea	444	13	11						
On New Impositions	10,099	16	10						
On Additional Impositions	815	13	11½						
On Tonnage	1,898	7	9½						
				18,038	11	9¾			
							240,492	4	5
The Receipts within the time of this accompt were, viz. :—	£	s.	d.						
At the Custom House on Old Customs, page 15.	151,593	1	0¼						
On New Customs	347,047	7	4½						
				498,640	8	4¾			
On Coinage, page 23				8,351	9	3¼			
On Coffee and Tea, Old Duty	1,299	7	9						
New for Transports	2,528	5	8						
				3,827	13	5			
				510,819	11	1			
Tonnage, page 25				81,638	0	2¾			
On New Impositions viz. :—									
East India Goods, page 21	159,574	2	10¾						
Wines	145,166	7	10¾						
Tobacco	99,852	17	8¾						
				404,593	8	6¼			
Additional Impositions				48,829	17	10			
4½ per cent. (besides 7,500*l.* owned more at the Exchequer than charged at the Custom House, which is added hereunder), page 23.				2,250	0	0			
							1,048,130	17	8
At the Excise Office, on Old Excise, page 27.	448,592	1	10½						
On Low Wines	12,454	9	5						
				461,046	11	3½			
Additional 9*d.* and Double 9*d.*				289,549	4	8¾			
Double 21*d.* and 30*d.*				595	5	0			
Excise for 99 years				146,400	17	11			
Additional Impost on Brandy				8,440	11	5½			
Excise on Salt, page 31				60,692	5	0½			
							966,724	15	5¼
At the Post Office, page 33				—			87,912	9	9
On Small Branches, pages 7, 9, 11				—			36,819	4	2½
On Arrears of Taxes, &c., pages 11 & 13				2,031,322	19	9			
On Grants for the Year 1695, page 13, viz. :—									
Sale of Annuities to 96 years.	167,003	0	6						
Annuities lapsed from 24 July 1695.	10,445	0	0						
	177,448	0	6						
Third 4*s.* Aid	781,212	16	8						
				958,660	17	2			
							2,989,983	16	11
							5,129,571	3	11¾
To which add what has been received by Loans more than has been repaid within the time of this accompt, page 2A.				1,420,377	5	4			
On Tallies of Anticipation on Excise, viz., Loans.	488,597	16	11						
On Pensions	3,875	0	0						
				492,472	16	11			
At the Post Office				54,531	12	9			
							1,967,384	15	0
									7,096,955 18 11¾
Transported				—			—		7,337,448 3 4¾

General State of Receipts and Payments of the Public Revenue between the Feast of St. Michael 1695. 1695-6.

Page 2. No. 996.

The GENERAL ACCOUNT for the Year 1695.	£ s. d.	£ s. d.	PAYMENTS. £ s. d.
To the Right Hon. Edward Russell, Esq., out of ⅓ Excise, for building 27 ships, page 4.	—	85,500 0 0	
To the Hon. Charles Bertie, Esq., for Ordnance for the said Ships.	—	12,000 0 0	
			97,500 0 0
To the said Edward Russell, Esq., for the current service of the Navy,	1,812,123 13 4¾		
To the said Charles Bertie, for Ordnance for the said service of the Navy.	198,517 16 4		
		2,010,641 9 8¾	
To the Right Hon. Richard E. of Ranelagh, for the Land Forces.	2,495,694 17 1¼		
To Char. Fox, Esq., and Tho. Ld. Coningesby, for ditto.	63,229 9 6¼		
	2,558,924 6 7½		
To the said Charles Bertie, Esq., for the Train.	206,323 4 4¾		
		2,765,247 11 0¼	
			4,775,889 0 9
For the Charge of the Civil Government, viz.:—			
To Edward Nicholas, Esq., Treasurer to Her late Majesty, page 4.	54,857 14 3		4,873,389 0 9
To Bartholomew Burton, for Her Majesty's Stock in the Bank,	6,000 0 0		
		60,857 14 3	
For Secret Service to sundry persons, as per particulars.	—	23,430 10 0	
Privy Purse, page 6	—	41,000 0 0	
Wardrobe	—	53,764 16 2	
Robes	—	4,000 0 0	
Master of the Horse	—	37,927 15 0	
Cofferer	—	128,118 16 0	
Treasurer of the Chamber	—	61,803 4 2	
Works	—	35,982 18 6½	
Gardens	—	3,228 4 10	
Jewels and Plate	—	15,176 2 10	
Law Suits	—	3,050 0 0	
Band of Pensioners, page 8	—	6,000 0 0	
Salaries—			
At the Exchequer, page 8	79,384 1 6¾		
At the Custom House, page 18	5,586 2 4		
		84,970 3 10¾	
Pensions—			
At the Exchequer, page 8	43,250 16 6½		
At the Custom House, page 16	947 8 0		
Excise Office— £ s. d.			
For the Queen Dowager, page 30. 13,709 15 2			
For the Princess Anne 53,500 0 0			
For the Bailiffs of Yarmouth. 160 0 0			
	67,369 15 2		
Post Office, page 36	19,550 0 0		
		131,117 19 8½	
Bounties and Free Gifts, page 8	—	18,004 19 9½	
Ambassadors, Envoys, &c.—			
At the Exchequer	45,004 0 1		
At the Custom House, page 18	680 0 0		
		45,684 0 1	
Rewards for Services	—	5,374 8 7½	
Rewards to Receivers	—	2,292 9 1½	
Surplus of Accounts	—	3,667 4 11¾	
Apprehending and prosecuting Highwaymen	—	2,475 12 2	
Stationery Ware, page 10	—	4,177 8 3	
Rent paid	—	375 0 0	
Charges of managing the Million Lottery	—	5,200 0 0	
The Commission for the Bank	—	4,091 0 10	
Charges of passing Privy Seals and Commissions.	—	632 16 1	
Prosecuting Clippers	—	50 0 0	
Diet and Lodging Prisoners in the Tower, &c.	—	1,550 8 7	
Soliciting of Taxes	—	200 0 0	
Hay for Deer in Windsor Forest	—	100 0 0	
Charges at an Installation at Windsor	—	53 4 6	
			784,356 18 4¾
Transported	—	—	5,657,745 19 1¾

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ACCOUNTS COMMISSIONERS.

Page 1—*cont.*

The GENERAL ACCOUNT for the Year 1695—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	7,337,448 3 4¾
From whence deduct—			
For Salaries and Incidents at the Excise Office, page 32.	—	26,780 5 3	
For Debentures, Salaries and Incidents at the Custom House, on Customs.	—	135,033 3 3½	
For Allowances on New Impositions, page 22	—	9,686 7 7½	
On Coinage, page 24 - - - - - -	—	148 19 6½	
On Additional Impositions, page 22 - -	—	3,982 5 5	
For Salaries and Incidents at the Post Office, page 36.	10,979 7 0		
For Charge of Packet Boats - - - -	13,312 12 2		
		24,291 19 2	
For Incidents on Tonnage, page 26 - -	—	731 4 6	
On Salt Duty Allowance for Herrings Exported, page 32.	1,234 15 6		
Salaries and Incidents - - - -	389 3 2		
		1,623 18 8	
			203,178 3 5½
			7,134,269 19 11¼
Owned by Sir Robert Howard, viz.:—			
Arrears of Customs - - - - - -	1,165 0 0		
4½ per cent. - - - - - - - -	7,500 0 0		
In several Articles, ¼*d.* each - - - -	0 0 9½		
		8,665 0 9½	
More by the Hereditary and Temporary Excise, as by the State thereof.	—	849 15 11½	
			9,514 16 9
			7,143,784 16 8¼

Page 1A.

The GENERAL ACCOUNT of MONEY borrowed on LOANS from 28 Sept. 1694 to 28 Sept. 1695.

Borrowed on the following Funds, viz.:—	£ s. d.	£ s. d.
Hereditary and Temporary Excise:—		
From 28 Sept. to 29 Dec. 1694 - - - - - -	95,151 14 9½	
To 29 March 1695 - - - - - - - - - -	96,075 13 4	
To 28 June - - - - - - - - - - -	344,193 13 10½	
To 28 Sept. - - - - - - - - - - -	37,796 14 8½	
		573,217 16 8½
Letter Money:—		
From 28 Sept. to 29 Dec. 1694 - - - - - -	2,000 0 0	
To 29 March 1695 - - - - - - - - -	2,177 8 3	
To 28 June - - - - - - - - - - -	3,365 0 0	
To 28 Sept. - - - - - - - - - - -	76,123 2 5½	
		83,665 10 8½
Paper, Parchment, &c.:—		
From 28 Sept. to 29 Dec. 1694 - - - - - -	—	24,633 10 5½
New Customs:—		
From 29 Dec. 1694 to 29 March 1695 - - - - -	472,039 19 5	
To 28 June - - - - - - - - - - -	500,956 6 2½	
To 28 Sept. - - - - - - - - - - -	272,959 19 4½	
		1,245,956 5 0
Transported -	—	1,927,473 2 10½

General State of Receipts and Payments, &c.

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Page 2—*cont.*

The GENERAL ACCOUNT for the Year 1695—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	5,657,745 19 1¾
For the Mint, page 12 - - - - - -	—	—	7,457 10 0
Annuities of 14 per cent. on the Million Act. page 10.	—	128,883 6 4	
On Survivorships - - - - -	—	10,673 3 7	
On Tonnage, page 12 - - - -	—	22,804 6 9	
On Lotteries - - - - - -	—	25,841 2 3½	
			188,201 18 11½
Interest—			
At the Exchequer, page 12 - - - -	—	369,711 9 6½	
At the Excise Office, page 32 - - -	—	14,375 17 4	
At the Custom House, page 20 - - -	—	450 0 0	
At the Post Office, page 36 - - - -	—	144 6 10	
			384,681 13 8½
Tallies paid this year which were struck the last, and included in that Account, viz. :—			
At the Excise Office - - - - - -	—	225,199 1 0½	
At the Custom House - - - - - -	—	1,203 11 6	
At the Post Office - - - - - -	—	22,205 9 2	
			248,608 1 8½
			6,486,695 3 6¼
Paid at the Custom House, Loans formerly on ¼ Customs.	—	15,000 0 0	
More to Mr. Knight, advanced by him last year.	—	12,144 6 7¾	
			27,144 6 7¾
			6,513,839 10 2
Cash remaining at Michaelmas 1695—			
At the Exchequer, page 14 - - - -	544,460 16 10¾		
At the Excise Office, abating 2*l.* 0*s.* 1*d.* in year former, page 32.	15,229 10 11¾		
At the Custom House, page 20 - - -	22,225 16 11¼		
At the Post Office, page 36 - - - -	794 19 10		
On Salt Duty, page 32 - - - - -	1,152 9 0		
On Coinage, page 24 - - - - -	6,515 0 11½		
		590,378 14 7¼	
More charged at the Exchequer, not there allowed till the week after Michaelmas 1695, viz. :—			
New Customs - - - - - - -	5,600 0 0		
New Impositions - - - - - -	28,043 16 1		
Additional Impositions - - - -	1,622 10 3		
Tonnage - - - - - - - -	4,078 8 7		
Coffee and Tea - - - - - - -	221 17 0		
		39,566 11 11	
			629,945 6 6¼
			7,143,784 16 8¼

Page 2A.

The GENERAL ACCOUNT of REPAYMENT of LOAN with Interest, from 28 Sept. 1694 to 28 Sept. 1695.

	Principal.	Total.	Interest.
Paid in satisfaction of Loans on the several Funds undermentioned, viz. :—			
	£ s. d.	£ s. d.	£ s. d.
¾ *Customs* :—			
From 28 Sept. 1692 to 29 Dec. 1694 - -	50,948 13 1½	—	8,271 2 5
To 29 March 1695 - - - - - -	5,248 5 11	—	2,190 3 7
To 28 June - - - - - - -	11,000 0 0	—	4,194 6 4
To 28 Sept. - - - - - - -	3,400 0 0	—	1,712 9 7
		70,596 19 0½	
Hereditary and Temporary Excise:—			
From 28 Sept. to 29 Dec. 1694 - - -	80,151 14 9½		
To 29 March 1695 - - - - - -	88,575 13 4		
To 28 June - - - - - - -	351,693 13 10½		
To 28 Sept. - - - - - - -	37,796 14 8½		
		558,217 16 8½	
Transported -	—	628,814 15 9	16,368 1 11

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ACCOUNTS COMMISSIONERS.

Page 1A—*cont.*

The GENERAL ACCOUNT of MONEY borrowed on LOANS, &c.—*cont.*

	£	s.	d.	£	s.	d.
Transported -	—			1,927,473	2	10½
Borrowed on the following Funds, viz. :—*cont.*						
Third 4s. Aid :—						
From 29 Dec. 1694 to 29 March 1695 - - - - -	1,360,427	19	9			
To 28 June - - - - - - - - - - -	247,573	13	0			
To 28 Sept. - - - - - - - - - - -	67,070	0	0			
				1,675,071	12	9
Marriages, Births, &c.:—						
From 29 March to 28 June 1695 - - - - - -	457,966	11	8			
To 28 Sept. - - - - - - - - - - -	93,166	8	1			
				551,132	19	9
Coals, Glass, &c.:—						
From 29 March to 28 June 1695 - - - - - -	206,056	18	0			
To 28 Sept. - - - - - - - - - - -	182,238	0	4½			
				388,294	18	4½
Annuities :—						
From 28 June to 28 Sept. 1695 - - - - - -	—			206,678	11	8
Exchequer in General :—						
From 28 Sept. to 29 Dec. 1694 - - - - - -	453,260	3	10			
To 29 March 1695 - - - - - - - - - -	319,002	2	6			
				772,262	6	4
Transported -	—			5,520,913	11	9

General State of Receipts and Payments, &c. 1695-6.

Page 2A—*cont.* No. 996.

The GENERAL ACCOUNT of REPAYMENT of LOANS, &c.—*continued.*

	Principal. £ s. d.	Total. £ s. d.	Interest. £ s. d.
Transported -	—	628,814 15 9	16,368 1 11
Paid in satisfaction of Loans on the several Funds undermentioned, viz.:—*cont.*			
Letter Money:—			
From 28 Sept. to 29 Dec. 1694 - - -	2,000 0 0		
To 29 March 1695 - - - - -	2,177 8 3		
To 28 Sept. - - - - - - -	28,241 15 4		
		32,419 3 7	
East India Goods:—			
From 28 Sept. to 29 Dec. 1694 - - -	38,426 13 0½	—	4,065 13 4
To 29 March 1695 - - - - -	24,635 0 8½	—	2,610 2 2
To 28 June - - - - - -	42,631 10 2	—	2,914 5 0
To 28 Sept. - - - - - -	39,929 15 9	—	2,421 0 2
		145,622 19 8	
Continued Impositions:—			
From 28 Sept. to 29 Dec. 1694 - - -	30,000 0 0	—	1,570 6 5
To 29 March 1695 - - - - -	1,719 14 9½	—	93 19 5
		31,719 14 9½	
Continued Acts and Joint Stocks:—			
From 28 Sept. to 29 Dec. 1694 - - -	—	—	12,130 18 9
To 29 March 1695 - - - - -	35,000 0 0	—	9,909 12 5
To 28 June - - - - - -	60,800 0 0	—	9,125 13 6
To 28 Sept. - - - - - -	49,800 0 0	—	6,816 19 7
		145,600 0 0	
⅔ *Additional Excise:*—			
From 28 Sept. to 29 Dec. 1694 - - -	32,525 12 11	—	10,520 1 2
To 29 March 1695 - - - - -	38,908 7 10½	—	8,277 6 10
To 28 June - - - - - -	40,100 0 0	—	6,706 17 5
To 28 Sept. - - - - - -	44,785 15 9½	—	7,185 15 3
		156,319 16 7	
Additional Impositions:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,500 0 0	—	7,001 0 4
To 22 March 1695 - - - - -	—	—	7,625 11 5
To 28 June - - - - - -	—	—	13,296 0 11
To 28 Sept. - - - - - -	12,550 0 0	—	5,753 17 6
		14,050 0 0	
First 4s. Aid:—			
From 28 Sept. to 29 Dec. 1694 - - -	2,000 0 0	—	1,656 18 10
To 29 March 1695 - - - - -	105 2 2	—	947 0 0
To 28 June - - - - - -	1,000 0 0	—	890 8 5
To 28 Sept. - - - - - -	—	—	1,091 17 1
		3,105 2 2	
Second 4s. Aid:—			
From 28 Sept. to 29 Dec. 1694 - - -	420,375 7 11	—	20,128 0 3
To 29 March 1695 - - - - -	477,093 14 2½	—	22,754 3 6
To 28 June - - - - - -	98,971 9 6	—	4,685 9 3
To 28 Sept. - - - - - -	14,850 0 0	—	828 15 11
		1,011,290 11 7½	
Paper, Parchment, &c.:—			
From 28 Sept. to 29 Dec. 1694 - - -	12,300 0 0	—	1,706 16 10
To 29 March 1695 - - - - -	7,762 10 0	—	5,485 10 6
To 28 June - - - - - -	9,000 0 0	—	3,591 5 3
To 28 Sept. - - - - - -	5,000 0 0	—	6,241 9 4
		34,062 10 0	
New Customs:—			
From 29 March to 28 June 1695 - -	100,000 0 0	—	1,215 12 6
To 28 Sept. - - - - - -	120,000 0 0	—	3,329 18 7
		220,000 0 0	
Third 4s. Aid:—			
From 29 March to 28 June 1695 - -	312,406 10 6	—	4,157 16 2
To 28 Sept. - - - - - -	419,800 2 6	—	12,053 12 11
		732,206 13 0	
Exchequer in General, viz.:—			
Out of 3rd 4s. Aid.			
From 29 March to 28 June 1695 - -	622,096 13 0	—	4,810 13 10
Transported -	622,096 13 0	3,155,211 7 2	229,998 12 8

1695-6.

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ACCOUNTS COMMISSIONERS.

Page 1A—*cont.*

The GENERAL ACCOUNT of MONEY borrowed on LOANS, &c.—*cont.*

	£ s. d.	£ s. d.
Transported -	—	5,520,913 11 9

Page 3.

An ACCOUNT of so much of the NET PRODUCE of the REVENUE and TAXES as was brought into the Exchequer from 28 Sept. 1694 to 28 Sept. 1695.

	£ s. d.	£ s. d.	£ s. d.
Remaining in Cash the 28 Sept. 1694 - -	—	—	197,245 10 5
Received more of the following branches, viz.:—			
¾ *Customs:*—	£ s. d.		
From 28 Sept. to 29 Dec. 1694.	48,627 18 10½		
To 29 March 1695 - -	7,069 3 5		
To 28 June - - -	15,365 15 9½		
To 28 Sept. - - -	5,587 1 3½		
	76,649 19 4½		
¼ *Customs:*—			
From 28 June to 28 Sept. 1695 - - -	2,000 0 0		
Arrears of Customs:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,165 0 0		
New Customs:—			
From 29 Dec. 1694 to 29 March 1695.	16,798 17 9½		
To 28 June - - -	99,289 2 2½		
To 28 Sept. - - -	108,912 - 1½		
	225,000 0 1½		
		304,814 19 6	
New Impositions, viz.:—			
On East India Goods:—			
From 28 Sept. to 29 Dec. 1694.	45,224 1 3½		
To 29 March 1695 - -	24,410 8 0		
To 28 June - - -	48,375 16 2½		
To 28 Sept. - - -	43,536 8 9		
	161,546 14 3		
Transported -	161,546 14 3	304,814 19 6	197,245 10 5

General State of Receipts and Payments, &c.

1695-6.

No. 996.

Page 2A—*cont.*

The GENERAL ACCOUNT of REPAYMENT of LOANS, &c.—*cont.*

	Principal, £ s. d.	Total. £ s. d.	Interest. £ s. d.
Transported -	622,096 13 0	3,155,211 7 2	229,998 12 8
Paid in satisfaction of Loans on the several Funds undermentioned, viz. :—*cont.*			
Out of 2nd Quarterly Poll. £ s. d.			
From 28 Sept. to 29 Dec. 1694 101,000 0 0	—	—	1,835 9 6
To 29 March 1695 - - 93,900 0 0	—	—	2,511 2 3
To 28 June - - - - 122,128 6 3	—	—	5,828 5 2
To 28 Sept. - - - - 700 0 0	—	—	25 5 1
	317,728 6 3		
		939,824 19 3	
Annuities :—			
From 28 June to 28 Sept. 1695 - - -	—	5,500 0 0	
Additional Interest and Discount - -	—	—	15,625 19 6
Bank Interest - - - - - - -	—	—	113,876 15 4½
		4,100,536 6 5	369,711 9 6½
Borrowed this year more than repaid - -	—	1,420,377 5 4	
		5,520,913 11 9	

Page 4.

An ACCOMPT of what hath been issued out of the EXCHEQUER from 28 Sept. 1690 to 28 Sept. 1695, except the issues in satisfaction of LOANS, which appear by a distinct accompt thereof.

	£ s. d.	£ s. d.	£ s. d.
Paid to the several Persons following, viz. :—			
To the Rt. Hon. Edward Russell, Esq., for the Navy:—			
From 28 Sept. to 29 Dec. 1694 - - -	569,478 10 2½		
To 29 March 1695 - - - - -	582,929 3 11¾		
To 28 June - - - - - -	202,987 11 7		
To 28 Sept. - - - - - -	542,228 7 7½		
		1,897,623 13 4¾	
The Hon. Charles Bertie, for the Ordnance:—			
From 28 Sept. to 29 Dec. 1694 - - -	104,715 13 4		
To 29 March 1695 - - - - -	133,183 19 11¾		
To 28 June - - - - - -	69,008 13 8		
To 28 Sept. - - - - - -	109,932 13 9		
		416,841 0 8¾	
The Rt. Honble. Earl of Ranelagh, for the Army :— £ s. d.			
From 28 Sept. to 29 Dec. 1694. 468,905 9 5¼			
To 29 March 1695 - - 785,120 12 10¼			
To 28 June - - - 844,470 12 7¾			
To 28 Sept. - - - 397,198 2 2			
	2,495,694 17 1¼		
Mr. Fox and Lord Coningsby, for the Irish Army :—			
From 28 Sept. to 29 Dec. 1694. 22,124 10 3			
To 29 March 1695 - - 10,041 17 11¾			
To 28 June - - - 14,845 19 3			
To 28 Sept. - - - 16,217 2 0½			
	63,229 9 6¼		
		2,558,924 6 7½	4,873,389 0 9
Transported -	—	—	4,873,389 0 9

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Accounts Commissioners.

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Page 3—*cont.*

The Account of the Exchequer Receipts—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	161,546 14 3	304,814 19 6	197,245 10 5
Received more of the following branches, viz.:—*cont.*			
Wines:—	£ s. d.		
From 28 Sept. to 29 Dec. 1694.	10,497 2 1½		
To 29 March 1695 - -	33,206 4 0		
To 28 June - - -	67,186 1 3½		
To 28 Sept. - - -	25,839 2 4½		
	136,728 9 9½		
Tobacco:—			
From 28 Sept. to 29 Dec. 1694.	19,903 15 3½		
To 29 March 1695 - -	16,498 4 5		
To 28 June - - -	8,117 0 10½		
To 28 Sept. - - -	34,168 17 7½		
	78,687 18 2½		
		376,963 2 3	
Additional Impositions:			
From 28 Sept. to 29 Dec. 1694 - - -	8,464 1 3		
To 29 March 1695 - - - - -	7,620 3 5		
To 28 June - - - - - - -	10,610 19 8		
To 28 Sept. - - - - - - -	17,345 11 5½		
		44,040 15 9½	
Coffee, Tea, &c.:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,078 13 11		
To 29 March 1695 - - - - -	655 3 0		
To 28 June - - - - - - -	1,246 4 9		
To 28 Sept. - - - - - - -	1,070 8 8		
		4,050 10 4	
Transported -	—	729,869 7 10½	197,245 10 5

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	729,869 7 10½	197,245 10 5
4½ *per Cent.*:—			
From 28 Sept. to 29 Dec. 1694 - - -	2,250 0 0		
To 29 March 1695 - - - - - -	2,000 0 0		
To 28 June - - - - - - -	5,500 0 0		
Coinage:—		9,750 0 0	
From 29 March to 28 June 1695 - - -	3,020 0 0		
To 28 Sept. - - - - - - -	2,112 10 0		
		5,132 10 0	
$\frac{3}{7}$ *Tonnage*:—	£ s. d.		
From 28 Sept. to 29 Dec. 1694	4,078 8 10½		
To 29 March 1695 - - -	5,189 8 8½		
To 28 June - - - -	6,388 13 0		
To 28 Sept. - - - -	6,836 15 2½		
	22,493 5 9½		
$\frac{5}{7}$ *Tonnage*:—			
From 28 Sept. to 29 Dec. 1694	10,196 3 11½		
To 29 March 1695 - - -	12,973 12 11		
To 28 June - - - -	15,971 13 6		
To 28 Sept. - - - -	17,091 18 11½		
	56,233 9 4		
		78,726 15 1½	
Transported -	—	—	823,478 13 0
			1,020,724 3 5

General State of Receipts and Payments, &c.

1695-6.

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Page 4—*cont.*

The ACCOUNT of the Issues at the EXCHEQUER—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	4,873,389 0 9
Paid to the several Persons following, viz.:—*cont.*			
FOR THE CHARGE OF THE CIVIL GOVERNMENT:—			
To Edward Nicholas, Esq., Treasurer to Her late Majesty:—			
From 28 Sept. to 29 Dec. 1694 - - -	12,000 0 0		
To 29 March 1695 - - - - -	500 0 0		
To 28 June - - - - - -	29,357 14 3		
To 28 Sept. - - - - - -	13,000 0 0		
	54,857 14 3		
To Barth. Burton for Her Majesty's Stock in the Bank.	6,000 0 0		
		60,857 14 3	
FOR SECRET SERVICE:—			
To Hen. Guy, Esq.:— £ s. d.			
From 28 Sept. to 29 Dec. 1694. 3,783 17 0½			
To 29 March 1695 - - 3,804 0 11½			
To 28 June - - - 1,805 0 0			
	9,392 18 0		
To Wm. Lowndes, Esq.:—			
From 29 March to 29 Sept. 1695. 4,717 4 6			
To 28 Sept. - - - 2,660 0 0			
	7,377 4 6		
To Sir J. Trenchard:—			
From 28 Sept. to 29 Dec. 1694. 1,500 0 0			
To 28 Sept. 1695 - - 1,160 7 6			
	2,660 7 6		
To Duke of Shrewsbury:—			
From 28 Sept. to 29 Dec. 1694. 1,000 0 0			
To 28 Sept. 1695 - - 2,000 0 0			
	3,000 0 0		
To Sir Wm. Trumbul:—			
From 28 June to 28 Sept. 1695 - - -	1,000 0 0		
		23,430 10 0	
Transported -	—	84,288 4 3	4,873,389 0 9

Page 6.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	84,288 4 3	4,873,389 0 9
Privy Purse:—			
From 28 Sept. to 29 Dec. 1694 - - -	4,000 0 0		
To 28 June 1695 - - - - -	31,500 0 0		
To 28 Sept. - - - - - -	5,500 0 0		
		41,000 0 0	
Master of the Wardrobe:—			
From 29 Dec. 1694 to 29 March 1695 - -	12,000 0 0		
To 28 June - - - - - -	38,384 0 9		
To 28 Sept. - - - - - -	3,380 15 5		
		53,764 16 2	
Master of the Robes:—			
From 29 Dec. 1694 to 29 March 1695 - -	1,500 0 0		
To 28 June - - - - - -	1,500 0 0		
To 28 Sept. - - - - - -	1,000 0 0		
		4,000 0 0	
Master of the Horse:—			
From 28 Sept. to 29 Dec. 1694 - - -	3,384 0 0		
To 29 March 1695 - - - - -	3,600 0 0		
To 28 June - - - - - -	29,443 15 0		
To 28 Sept. - - - - - -	1,500 0 0		
		37,927 15 0	
Transported -	—	220,980 15 5	4,873,389 0 9

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Accounts Commissioners.

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The Account of the Exchequer Receipts—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Excise, viz.:			
Transported -	—	—	1,020,724 3 5
Hereditary and Temporary:—			
From 28 Sept. to 29 Dec. 1694 - - -	97,507 18 11		
To 29 March 1695 - - - - - -	95,750 9 3½		
To 28 June - - - - - - -	364,018 13 10½		
To 28 Sept. - - - - - - -	53,021 14 8½		
		610,298 16 9½	
⅔ *Additional:*— £ s. d.			
From 28 Sept. to 29 Dec. 1694 - 45,434 4 3½			
To 29 March 1695 - - - 48,612 18 11			
To 28 June - - - - 47,669 17 9½			
To 28 Sept. - - - - 52,210 4 1			
	193,927 5 1		
⅓ *Additional:*			
From 28 Sept. to 29 Dec. 1694 22,717 1 11			
To 29 March 1695 - - - 24,306 9 3½			
To 28 June - - - - 23,834 18 7			
To 28 Sept. - - - - 26,105 2 1			
	96,963 11 10½		
		290,890 16 11½	
Double:—			
From 28 Sept. to 29 Dec. 1694 - - -	317 1 8		
To 29 March 1695 - - - - - -	8 13 10		
To 28 June - - - - - - -	137 8 1½		
To 28 Sept. - - - - - - -	2 18 2		
		466 1 9½	
21*d.* and 30*d. per Barrel:*—			
From 28 Sept. to 29 Dec. 1694 - - -	175 6 3½		
To 29 March 1695 - - - - - -	143 15 3½		
To 28 June - - - - - - -	48 14 3		
To 28 Sept. - - - - - - -	12 9 9		
		380 5 7	
Excise for 99 *Years:*—			
From 28 Sept. to 29 Dec. 1694 - - -	34,249 11 2		
To 29 March 1695 - - - - - -	36,373 11 6½		
To 28 June - - - - - - -	36,571 12 3½		
To 28 Sept. - - - - - - -	39,789 1 7½		
		146,983 16 7½	
Transported -	—	1,049,019 17 9	1,020,724 3 5

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	1,049,019 17 9	1,020,724 3 5
Additional Impost on Brandy:—			
From 28 Sept. to 29 Dec. 1694 - - -	598 9 10½		
To 29 March 1695 - - - - - -	550 9 4		
To 28 June - - - - - - -	3,951 13 7½		
To 28 Sept. - - - - - - -	3,152 8 7½		
		8,253 1 5½	
Low Wines:—			
From 28 Sept. to 29 Dec. 1694 - - -	3,858 4 6		
To 29 March 1695 - - - - - -	4,006 4 1		
To 28 June - - - - - - -	2,425 6 1		
To 28 Sept. - - - - - - -	2,462 5 3		
		12,751 19 11	
Salt Excise:—			
From 28 Sept. to 29 Dec. 1694 - - -	16,244 15 6		
To 29 March 1695 - - - - - -	11,020 9 9½		
To 28 June - - - - - - -	9,891 5 2½		
To 28 Sept. - - - - - - -	22,145 18 10½		
		59,302 9 4½	
Letter Money:—			1,129,327 8 6
From 28 Sept. to 29 Dec. 1694 - - -	—	6,500 0 0	
To 29 March 1695 - - - - - -	—	2,177 8 3	
To 28 June - - - - - - -	—	38,387 10 4	
To 28 Sept. - - - - - - -	—	29,147 12 1	
			76,212 10 8
Small Branches, viz.:—			
Seizures:—			
From 28 Sept. to 29 Dec. 1694 - - -	3,250 4 10		
To 29 March 1695 - - - - - -	632 10 2½		
To 28 June - - - - - - -	1,802 2 9½		
To 28 Sept. - - - - - - -	699 1 5½		
Transported -	—	6,383 19 3½	2,226,264 2 7

General State of Receipts and Payments, &c.

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The ACCOUNT of the Issues at the EXCHEQUER—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	220,980 15 5	4,873,389 0 9
Cofferer:—			
From 28 Sept. to 29 Dec. 1694 - - -	10,110 4 0		
To 29 March 1695 - - - - - -	13,554 0 0		
To 28 June - - - - - - -	103,900 0 0		
To 28 Sept. - - - - - - -	554 12 0		
		128,118 16 0	
Treasurer of the Chamber:—			
From 28 Sept. to 29 Dec. 1694 - - -	891 15 2		
To 29 March 1695 - - - - - -	643 10 4		
To 28 June - - - - - - -	52,023 1 0		
To 28 Sept. - - - - - - -	8,244 17 8		
		61,803 4 2	
Works:—			
From 28 Sept. to 29 Dec. 1694 - - -	5,270 3 11		
To 29 March 1695 - - - - - -	4,286 13 6		
To 28 June - - - - - - -	24,902 12 4½		
To 28 Sept. - - - - - - -	1,523 8 9		
		35,982 18 6½	
Gardens:—			
From 28 Sept. to 29 Dec. 1694 - - -	350 0 0		
To 28 June - - - - - - -	2,000 0 0		
To 28 Sept. - - - - - - -	878 4 10		
		3,228 4 10	
Jewels and Plate:—			
From 28 Sept. to 29 Dec. 1694 - - -	2,150 0 0		
To 28 June - - - - - - -	11,026 2 10		
To 28 Sept. - - - - - - -	2,000 0 0		
		15,176 2 10	
Law Suits:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,000 0 0		
To 29 March 1695 - - - - - -	950 0 0		
To 28 June - - - - - - -	600 0 0		
To 28 Sept. - - - - - - -	500 0 0		
		3,050 0 0	
Transported -	—	468,340 1 9½	4,873,389 0 9

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	468,340 1 9½	4,873,389 0 9
Band of Pensioners:—			
From 29 March to 28 June 1695 - - -	—	6,000 0 0	
Salaries, &c.:—			
From 28 Sept. to 29 Dec. 1694 - - -	10,218 6 11¼		
To 29 March 1695 - - - - - -	13,843 17 7		
To 28 June - - - - - - -	44,410 14 1½		
To 28 Sept. - - - - - - -	10,911 2 11		
		79,384 1 6¾	
Pensioners:—			
From 28 Sept. to 29 Dec. 1694 - - -	9,893 7 3½		
To 29 March 1695 - - - - - -	9,377 10 0		
To 28 June - - - - - - -	19,359 4 8		
To 28 Sept. - - - - - - -	4,620 14 7		
		43,250 16 6½	
Bounties and Free Gifts:—			
From 28 Sept. to 29 Dec. 1694 - - -	525 9 9½		
To 29 March 1695 - - - - - -	2,619 12 6		
To 28 June - - - - - - -	12,009 0 0		
To 28 Sept. - - - - - - -	2,850 17 6		
		18,004 19 9½	
Ambassadors, Envoys, &c.:—			
From 28 Sept. to 29 Dec. 1694 - - -	13,035 9 0		
To 29 March 1695 - - - - - -	2,095 12 9		
To 28 June - - - - - - -	15,480 1 0		
To 28 Sept. - - - - - - -	14,392 17 4		
		45,004 0 1	
Rewards for Service:—			
From 28 Sept. to 29 Dec. 1694 - - -	606 4 1¼		
To 29 March 1695 - - - - - -	609 14 8		
To 28 June - - - - - - -	598 12 2		
To 28 Sept. - - - - - - -	3,559 17 8		
		5,374 8 7¼	
Transported -	—	665,358 8 4½	4,873,389 0 9

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Accounts Commissioners.

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The Account of the Exchequer Receipts—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Small Branches, viz.—*cont.*			
Transported -	—	6,383 19 3½	2,226,264 2 7
Tenths:—			
From 28 Sept. to 29 Dec. 1694 - - -	2,874 9 11½		
To 29 March 1695 - - - - - - -	2,763 2 11		
To 28 June - - - - - - - -	2,461 15 11		
To 28 Sept. - - - - - - - -	1,059 15 8		
		9,159 4 5½	
First Fruits:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,843 2 6		
To 29 March 1695 - - - - - -	1,343 2 6		
To 28 June - - - - - - - -	2,468 2 6		
To 28 Sept. - - - - - - - -	1,134 1 9½		
		6,788 9 3½	
Alienations:—			
From 28 Sept. to 29 Dec. 1694 - - -	850 0 0		
To 29 March 1695 - - - - - -	250 0 0		
To 28 June - - - - - - - -	750 0 0		
		1,850 0 0	
Temporalities:—			
From 28 Sept. to 29 Dec. 1694 - - -	—	65 9 9½	
Transported -	—	24,247 2 10	2,226,264 2 7

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	24,247 2 10	2,226,264 2 7
Fines of Leases:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,604 17 8		
To 29 March 1695 - - - - - -	116 2 3		
To 28 June - - - - - - - -	1,499 6 4		
To 28 Sept. - - - - - - - -	0 13 8		
		3,220 19 11	
Rent of Land:—			
From 28 Sept. to 29 Dec. 1694 - - -	0 16 8		
To 29 March 1695 - - - - - -	19 16 8		
To 28 Sept. - - - - - - - -	13 3 4		
		33 16 8	
Rent of Grants:—			
From 28 Sept. to 29 Dec. 1694 - - -	9 3 4		
To 28 June 1695 - - - - - -	57 10 0		
		66 13 4	
Lotteries:—			
From 28 Sept. to 29 Dec. 1694 - - -	447 0 0		
To 29 March 1695 - - - - - -	637 0 0		
To 28 June - - - - - - - -	437 0 0		
		1,521 0 0	
Sheriffs of Counties:—			
From 28 Sept. to 29 Dec. 1694 - - -	522 6 8		
To 29 March 1695 - - - - - -	34 0 0		
To 28 June - - - - - - - -	334 6 2		
To 28 Sept. - - - - - - - -	46 17 8		
		937 10 6	
Sheriffs of Cities:—			
From 28 Sept. to 29 Dec. 1694 - - -	36 9 8½		
To 29 March 1695 - - - - - -	12 5 4		
To 28 June - - - - - - - -	48 1 8		
To 28 Sept. - - - - - - - -	2 2 0		
		98 18 8½	
Sale of Wood:—			
From 28 Sept. to 29 Dec. 1694 - - -	400 0 0		
To 28 June 1695 - - - - - -	315 0 0		
To 28 Sept. - - - - - - - -	600 0 0		
		1,315 0 0	
Land seized:—			
From 28 Sept. to 29 Dec. 1694 - - -	—	3 10 0	
Compositions:—			
From 28 Sept. to 29 Dec. 1694 - - -	3 16 8		
To 29 March 1695 - - - - - -	8 6 8		
To 28 June - - - - - - - -	10 8 4		
To 28 Sept. - - - - - - - -	8 2 6		
		30 14 2	
Receivers General:—			
From 28 Sept. to 29 Dec. 1694 - - -	250 0 0		
To 28 June 1685 - - - - - -	300 0 0		
		550 0 0	
Fee Farm Rents:—			
From 28 Sept. to 29 Dec. 1694 - - -	—	11 15 4	
Transported -	—	32,037 1 5½	2,226,264 2 7

General State of Receipts and Payments, &c.

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The ACCOUNT of the Issues at the Exchequer—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	665,358 8 4½	4,873,389 0 9
Rewards to Receivers:—			
From 28 Sept. to 29 Dec. 1694 - - -	116 4 9		
To 29 March 1695 - - - - - -	437 3 6		
To 28 June - - - - - - -	454 11 4		
To 28 Sept. - - - - - - - -	1,284 9 6½		
		2,292 9 1½	
Surplus of Accounts:—			
From 28 Sept. to 29 Dec. 1694 - - -	1,535 0 0		
To 29 March 1695 - - - - - -	870 13 3		
To 28 June - - - - - - -	502 6 10¾		
To 28 Sept. - - - - - - - -	759 4 10		
		3,667 4 11¾	
Apprehending and prosecuting Highwaymen, &c.:—			
From 28 Sept. to 29 Dec. 1694 - - -	30 0 0		
To 29 March 1695 - - - - - -	650 4 11		
To 28 June - - - - - - -	860 0 0		
To 28 Sept. - - - - - - - -	935 7 3		
		2,475 12 2	
Transported -	—	673,793 14 7¾	4,873,389 0 9

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	673,793 14 7¾	4,873,389 0 9
Stationery Ware:—			
From 28 Sept. to 29 Dec. 1694 - - -	2,000 0 0		
To 29 March 1695 - - - - - -	2,177 8 3		
		4,177 8 3	
Rent paid:—			
From 29 Dec. 1694 to 29 March 1695 - -	225 0 0		
To 28 Sept. - - - - - - - -	150 0 0		
		375 0 0	
Charges of the Commission for the Million Lottery:—			
From 29 Dec. 1694 to 29 March 1695 -	500 0 0		
To 28 June - - - - - - -	300 0 0		
	800 0 0		
Paid the Commissioners in reward - -	4,400 0 0		
		5,200 0 0	
Charges of the Commission for the Bank:—			
From 29 March to 28 June 1695 - - -	341 0 10		
Paid the Commissioners in reward - -	3,750 0 0		
		4,091 0 10	
Charges in passing Privy Seals and Commissions:—			
From 29 March to 28 June 1695 - -	91 9 0		
To 28 Sept. - - - - - - -	541 7 1		
		632 16 1	
Prosecuting Clippers:—			
From 28 June to 28 Sept. 1695 - - -	—	50 0 0	
Diet and Lodging Prisoners in the Tower, and conveying some into the Country:—			
From 29 Dec. 1694 to 29 March 1695 -	902 0 0		
To 28 Sept. - - - - - - -	648 8 7		
		1,550 8 7	
Soliciting Taxes:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	200 0 0	
For Hay for Deer in Windsor Forest:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	100 0 0	
Charges for an Installation at Windsor:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	53 4 6	
Annuities of 14 per cent. on the Million Act:—			690,223 12 10¾
£ s. d.			
From 28 Sept. to 29 Dec. 1694 - 31,951 16 1			
To 29 March 1695 - - - 33,278 10 5			
To 28 June - - - - 39,946 12 1			
To 28 Sept. - - - - 23,706 7 9			
	128,883 6 4		
Annuities on Survivorship:—			
From 28 Sept. to 29 Dec. 1694 - 538 9 1¼			
To 29 March 1695 - - - 4,932 3 2¼			
To 28 June - - - - 1,037 18 0			
To 28 Sept. - - - - 4,164 13 3½			
	10,673 3 7		
		139,556 9 11	
Transported -	—	139,556 9 11	5,563,612 13 7¾

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ACCOUNTS COMMISSIONERS.

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The ACCOUNT of the EXCHEQUER RECEIPTS—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	32,037 1 5½	2,226,264 2 7
Hanaper:—			
From 25 Sept. to 29 Dec. 1694 - - -	10 0 0½		
To 29 March 1695 - - - - - - -	327 4 7		
To 28 June - - - - - - -	1,250 0 0		
To 28 Sept. - - - - - - - -	1,390 18 2		
		2,978 2 9	
Imprest Money repaid :—			
From 28 Sept. to 29 Dec. 1694 - - -	500 0 0		
To 28 June 1695 - - - - - -	340 0 0		
		840 0 0	
Forfeitures for Treason:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	500 0 0	
Money repaid by Mr. Villiers:—			
From 28 June to 28 Sept. 1695 - - -	—	464 0 0	
			36,819 4 2½
Taxes, viz.:—			
King Charles 2nd's Poll:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	15 1 0	
Present Aid:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	0 6 8	
First Poll:—			
From 28 June to 29 Sept. 1695 - - -	—	14 10 0	
First 12d. Aid:—			
From 28 June to 28 Sept. 1695 - - -	—	37 2 6	
Second Poll:—			
From 29 March to 28 June 1695 - - -	8 17 0		
To 28 Sept. - - - - - - - -	345 4 0		
		354 1 0	
2s. Aid:—			
From 29 March to 28 June 1695 - -	73 18 10		
To 28 Sept. - - - - - - -	129 7 0		
		203 5 10	
Additional Aid:—			
From 29 March to 28 June 1695 - - -	36 19 6½		
To 28 Sept. - - - - - - - -	64 13 6		
		101 13 0½	
Second 12 Months' Aid:—			
From 28 Sept. to 29 Dec. 1694 - - -	130 0 0		
To 29 March 1695 - - - - -	5 13 5		
		135 13 5	
First Quarterly Poll:—			
From 29 Dec. 1694 to 29 March 1695 - -	143 17 5		
To 28 June - - - - - - -	312 0 0		
To 28 Sept. - - - - - - - -	33 12 0		
		489 9 5	
Transported -	—	1,351 2 10½	2,263,083 6 9½

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	1,351 2 10½	2,263,083 6 9½
Review of the Quarterly Poll:—			
From 28 Sept to 29 Dec. 1694 - - -	719 4 2		
To 29 March 1695 - - - - - -	1 10 7½		
To 28 June - - - - - - -	0 10 11		
		721 5 8½	
First 4s. Aid:—			
From 28 Sept. to 29 Dec. 1694 - - -	5,696 1 1½		
To 29 March 1695 - - - - - -	987 2 1½		
To 28 June - - - - - - -	1,264 6 10		
To 28 Sept. - - - - - - - -	517 5 7½		
		8,464 15 8½	
Second 4s. Aid:—			
From 28 Sept. to 29 Dec. 1694 - - -	456,540 1 7		
To 29 March 1695 - - - - - -	512,009 13 1		
To 28 June - - - - - - -	65,690 0 9		
To 28 Sept. - - - - - - - -	16,243 3 4½		
		1,050,482 18 9½	
Second Quarterly Poll:—			
From 28 Sept. to 29 Dec. 1694 - - -	87,740 11 8		
To 29 March 1695 - - - - - -	111,866 17 8		
To 28 June - - - - - - -	105,195 19 2½		
To 28 Sept. - - - - - - - -	11,699 18 4		
		316,503 6 10½	
Transported -	—	1,377,523 9 11½	2,263,083 6 9½

General State of Receipts and Payments, &c.

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The ACCOUNT of the ISSUES at the EXCHEQUER—*cont.*

	£ s. d.	£ s. d.	£ s. d
Transported -	—	139,556 9 11	5,563,612 13 7¾
Annuities on Tonnage:—			
From 28 Sept. to 29 Dec. 1694 - - -	6,848 5 7		
To 29 March 1695 - - - - - -	6,016 12 8		
To 28 June - - - - - - -	3,374 5 11		
To 28 Sept. - - - - - - -	6,565 2 7		
		22,804 6 9	
Annuities on Lotteries:—			
From 29 March to 28 June 1695 - - -	—	25,841 2 3½	
			188,201 18 11½
For the Mint:—			
From 28 Sept. to 29 Dec. 1694 - - -	—	3,940 17 3	
To 28 Sept. 1695 - - - - - -	—	3,516 12 9	
			7,457 10 0
Interest for money borrowed - - - -	—	—	369,711 9 6½
Transported -	—	—	6,128,983 12 1¾

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	6,128,983 12 1¾
Remaiuing in Cash, the 28 Sept. 1695 - -	—	—	544,460 16 10¾
Transported -	—	—	6,673,444 9 0½

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Accounts Commissioners.

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The Account of the Exchequer Receipts—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	1,377,523 9 11½	2,263,083 6 9½
Paper, Parchment, &c.:—			
From 28 Sept. to 29 Dec. 1694 - - -	10,200 0 0		
To 29 March 1695 - - - - - -	11,000 0 0		
To 28 June - - - - - - -	15,400 0 0		
To 28 Sept. - - - - - - -	8,300 0 0		
		44,900 0 0	
Hackney Coaches:—			
From 29 Dec. 1694 to 29 March 1695 - -	—	1,400 0 0	
Third 4s. Aid:—			
From 29 March to 28 June 1695 - - -	372,144 14 11		
To 28 Sept. - - - - - - -	409,068 1 9		
		781,212 16 8	
Contributions on Salt:—			2,205,036 6 7½
From 29 Dec. 1694 to 29 March 1695 - -	25 17 0		
To 28 Sept. - - - - - - -	1 3 2		
		27 0 2	
Bank Money:—			
From 28 Sept. to 29 Dec. 1694 - - -	587,472 9 8		
To 29 March 1695 - - - - -	19,999 19 11½		
		607,472 9 7½	
Annuities Exchanged:—			
From 29 March to 28 June 1695 - - -	38,826 0 0		
To 28 Sept. - - - - - - -	128,177 0 6		
	167,003 0 6		
Annuities Lapsed:—			
From 28 June to 28 Sept. 1695 - - -	10,445 0 0		
		177,448 0 6	
			784,947 10 3½
			5,253,067 3 8½
Borrowed of Loans more than repaid - -	—	—	1,420,377 5 4
			6,673,444 9 0½

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The Account of Customs, from 29 Sept. 1694 to 28 Sept. 1695. Dr.

To Receipts, viz.:—	£ s. d.	£ s. d.	£ s. d.
Of Old Customs:—			
In the Port of London:—			
From 29 Sept. to 24 Dec. 1694 - - -	63,420 13 6		
To 30 March 1695 - - - - -	7,907 0 0		
To 29 June - - - - - - -	9,600 0 0		
To 28 Sept. - - - - - - -	3,400 0 0		
		84,327 13 6	
In the Out Ports:—			
From 29 Sept. to 24 Dec. 1694 - - -	25,926 6 10½		
To 30 March 1695 - - - - -	12,268 3 9¼		
To 29 June - - - - - - -	4,645 18 4		
To 28 Sept. - - - - - - -	776 6 0½		
		43,616 15 0¼	
Upon Bonds —			
From 29 Sept. to 24 Dec. 1694 - - -	4,379 17 8½		
To 30 March 1695 - - - - -	12,407 4 10½		
To 29 June - - - - - - -	3,588 7 7½		
To 28 Sept. - - - - - - -	3,273 2 3½		
		23,648 12 6	
			151,593 1 0¼
Of New Customs:—			
In the Port of London:—			
From 24 Dec. 1694 to 30 March 1695 - -	49,358 15 2		
To 29 June - - - - - - -	105,599 1 9		
To 28 Sept. - - - - - - -	157,447 12 1		
		312,315 9 0	
In the Out Ports:—			
From 24 Dec. 1694 to 30 March 1695 - -	1,495 7 9½		
To 29 June - - - - - - -	20,641 19 0½		
To 28 Sept. - - - - - - -	12,594 11 6½		
		34,731 18 4½	
			347,047 7 4½
Transported -	—	—	498,640 8 4¾

General State of Receipts and Payments, &c. 1695-6.

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The ACCOUNT of the ISSUES at the EXCHEQUER—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Trnsported -	—	—	6,673,444 9 0½

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The ACCOUNT of CUSTOMS, from 29 Sept. 1694 to 28 Sept. 1695. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Balance overpaid the 28 Sept. 1694 - -	—	—	12,144 6 7¾
By Payments into the Exchequer, viz.:—			
Of ¾ Customs:— £ s. d.			
From 29 Sept. to 24 Dec. 1694 45,889 0 5			
To 30 March 1695 - - - 7,018 3 7¼			
To 29 June - - - - 13,375 14 5			
To 28 Sept. - - - - 5,587 1 3			
	71,869 19 8¼		
¼ Customs:—			
From 29 Sept. to 24 Dec. 1694 - 8,203 11 6			
To 30 March 1695 - - - 8,000 0 0			
To 28 Sept. - - - - 2,000 0 0			
	18,203 11 6		
New Customs:—			
From 24 Dec. 1694 to 30 March 1695. 23,364 12 3½			
To 29 June - - - - 93,116 10 5½			
To 28 Sept. - - - - 114,118 17 3			
	230,600 0 0	320,673 11 2¼	
By Pensions and Annuities:—			
To George Tuthil:—			
From 29 Sept. to 24 Dec. 1694 25 0 0			
To 30 March 1695 - - 50 0 0			
To 29 June - - - - 25 0 0			
To 28 Sept. - - - - 25 0 0			
	125 0 0		
Thomas Hide:—			
From 29 Sept. to 24 Dec. 1694 12 10 0			
To 30 March 1695 - - 12 10 0			
To 29 June - - - - 12 10 0			
To 28 Sept. - - - - 12 10 0			
	50 0 0		
Transported -	175 0 0	320,673 11 2¼	12,144 6 7¾

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Accounts Commissioners.

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The Account of Customs—*cont.* Dr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	498,640 8 4¾

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	498,640 8 4¾

General State of Receipts and Payments, &c. 1695-6.

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The ACCOUNT of CUSTOMS—*cont.* Cr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	175 0 0	320,673 11 2¼	12,144 6 7¾
By Pensions and Annuities—cont.			
To Ameas and Juliana Hext:—			
From 29 Sept. to 24 Dec. 1694 50 0 0			
To 29 June 1695 - - - 100 0 0			
To 28 Sept. - - - - 25 0 0			
	175 0 0		
The City of London:—			
From 24 Dec. 1694 to 30 March 1695. 96 12 0			
To 29 June - - - - 100 16 0			
	197 8 0		
Town of Berwick:—			
From 30 March to 29 June 1695 - -	200 0 0		
Corporation of Lyme:—			
From 29 Sept. to 24 Dec. 1694 50 0 0			
To 30 March 1695 - - - 50 0 0			
	100 0 0		
Thomas Fairfax:—			
From 29 Sept. to 24 Dec. 1694 25 0 0			
To 30 March 1695 - - 25 0 0			
To 29 June - - - - 25 0 0			
To 28 Sept. - - - - 25 0 0			
	100 0 0		
		947 8 0	
Transported -	—	321,620 19 2¼	12,144 6 7¾

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	321,620 19 2¼	12,144 6 7¾
By Payments to State and Exchequer Officers, viz.:—			
To the Duke of Shrewsbury:— £. s. d.			
From 29 Sept. to 24 Dec. 1694 - 462 10 0			
To 30 March 1695 - - - 462 10 0			
To 29 June - - - - 462 10 0			
To 28 Sept. - - - - 462 10 0			
	1,850 0 0		
Sir John Trenchard:—			
From 29 Sept. to 24 Dec. 1694 - 462 10 0			
To 30 March 1695 - - - 462 10 0			
To 29 June - - - - 462 10 0			
	1,387 10 0		
Sir William Trumbal:—			
From 29 June to 29 Sept. 1695 - - -	462 10 0		
Earl of Pembroke:—			
From 30 March to 29 June 1695 - - -	365 0 0		
Bp. of Sarum:—			
From 29 Sept. to 24 Dec. 1694 - 285 2 6			
To 29 June - - - - 285 2 6			
	570 5 0		
Simon Smith:—			
From 29 Sept. to 24 Dec. 1694 - 7 0 3½			
To 30 March 1695 - - - 7 0 3½			
	14 0 7		
Transported -	4,649 5 7	321,620 19 2¼	12,144 6 7¾

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The Account of Customs—*cont.* Dr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	498,640 8 4¾

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	498,640 8 4¾

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The ACCOUNT of CUSTOMS—*cont.* Cr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	4,649 5 7	321,620 19 2¼	12,144 6 7¾
To Hugh Chudleigh:— £ s. d.			
From 29 Sept. to 24 Dec. 1694 - 37 10 0			
To 30 March 1695 - - - 37 10 0			
To 28 Sept. - - - - 75 0 0			
	150 0 0		
Benjamin Ayloff:—			
From 24 Dec. 1694 to 30 March 1695 - -	424 1 8		
Officers of the Pipe:—			
From 24 Dec. [1694] to 30 Mar. 1695 - -	81 12 4		
John Ady:—			
From 30 March to 29 June 1695 - - -	67 2 9		
John Tayler:—			
From 24 Dec. 1694 to 30 March 1695 75 0 0			
To 29 June - - - - 37 10 0			
	112 10 0		
Henry Stancomb:—			
From 30 March to 29 June 1695 - - -	102 10 0		
		5,586 2 4	
To Thomas Baker, Consul at Algiers:—			
From 29 Sept. to 24 Dec. 1694 - 150 0 0			
To 29 June - - - - 150 0 0			
	300 0 0		
Nathaniel Lodington, Consul at Tripoli:—			
From 29 Sept. to 24 Dec. 1694 - 95 0 0			
To 29 June - - - - 190 0 0			
To 28 Sept. - - - - 95 0 0			
	380 0 0		
		680 0 0	
Transported -	—	327,887 1 6¼	12,144 6 7¾

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	327,887 1 6¼	12,144 6 7¾
By Interest for Loans:—			
From 29 Sept. to 24 Dec. 1694 - - -	—	450 0 0	
By Debentures:— £ s. d.			
From 29 Sept. to 24 Dec. 1694 - 10,639 5 5½			
To 30 March 1695 - - - 25,982 18 11			
To 29 June - - - - 18,902 15 11½			
To 28 Sept. - - - - 20,113 6 3½			
	75,638 6 7½		
Allowances:—			
From 29 Sept. to 24 Dec. 1694 4,115 10 1			
To 30 March 1695 - - - 1,355 2 6½			
To 29 June - - - - 1,110 4 2			
To 28 Sept. - - - - 984 10 0½			
	7,565 6 10		
Portage Bills:—			
From 29 Sept. to 24 Dec. 1694 - 394 0 0			
To 30 March 1695 - - - 359 1 1			
To 29 June - - - - 443 11 3			
To 28 Sept. - - - - 426 13 2			
	1,623 5 6		
	84,826 18 11½		
By Salaries and Incidents:—			
From 29 Sept. to 24 Dec. 1694 - 11,133 8 4			
To 30 March 1695 - - - 14,000 12 7½			
To 29 June - - - - 12,550 11 0			
To 28 Sept. - - - - 13,416 12 4½			
	51,106 4 4		
		135,933 3 3½	
			464,270 4 9¾
By Balance remaining in Cash 28 September 1695, viz.:—			476,414 11 5½
Of Old Customs - - - - - -	—	1,243 12 5¼	
Of New Customs - - - - -	—	20,982 4 6	
			22,225 16 11¼
			498,640 8 4¾

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The Account of New Impositions, from 29 Sept. 1694 to 29 Sept. 1695. Dr.

	£	s.	d.	£	s.	d.
To Receipts of—						
East India Goods:—						
From 29 Sept. to 24 Dec. 1694	41,611	16	10½			
To 30 March 1695	23,248	7	6¾			
To 29 June	48,043	16	7			
To 28 Sept.	46,670	1	10½			
				159,574	2	10¾
Wines:—						
From 29 Sept. to 24 Dec. 1694	14,396	4	3¾			
To 30 March 1695	37,912	6	7¼			
To 29 June	67,653	4	3½			
To 28 Sept.	25,204	12	8¼			
				145,166	7	10¾
Tobacco:—						
From 29 Sept. to 24 Dec. 1694	21,289	19	7½			
To 30 March 1695	13,437	3	9¾			
To 29 June	8,836	12	7¾			
To 28 Sept.	56,289	1	7¾			
				99,852	17	8¾
				404,593	8	6¼

The Account of Additional Impositions, from 29 Sept. 1694 to 28 Sept. 1695. Dr.

To Receipts, viz.:—	£	s.	d.
From 28 Sept. to 29 Dec. 1694	8,461	19	9¾
To 30 March 1695	9,260	6	0¼
To 29 June	11,084	16	3½
To 28 Sept.	20,022	15	8
	48,829	17	10

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The ACCOUNT of NEW IMPOSITIONS, from 29 Sept. 1694 to 28 Sept. 1695. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer, viz., of—			
East India Goods:—			
From 29 Sept. to 24 Dec. 1694	41,611 16 10½		
To 30 March 1695	23,248 7 6¾		
To 29 June	48,043 16 7		
To 28 Sept.	46,670 1 10½		
		159,574 2 10¾	
Wines:—			
From 29 Sept. to 24 Dec. 1694	10,145 10 0¾		
To 30 March 1695	36,318 7 8¾		
To 29 June	66,602 5 5½		
To 28 Sept.	24,687 18 3¾		
		137,754 1 6¾	
Tobacco:—			
From 29 Sept. to 24 Dec. 1694	19,855 15 2½		
To 30 March 1695	13,126 14 6¼		
To 29 June	8,790 1 9¼		
To 28 Sept.	55,806 4 11¼		
		97,578 16 5¼	
			394,907 0 10¾
By Allowances on Wines:—			
From 29 Sept. to 24 Dec. 1694	4,250 14 3		
To 30 March 1695	1,593 18 10½		
To 29 June	1,050 18 10		
To 28 Sept.	516 14 4½		
		7,412 6 4	
By Debentures and Allowances on Tobacco:—			
From 29 Sept. to 24 Dec. 1694	1,434 4 5		
To 30 March 1695	310 9 3½		
To 29 June	46 10 10½		
To 28 Sept.	482 16 8½		
		2,274 1 3½	
			9,686 7 7½
			404,593 8 6¼

The ACCOUNT of ADDITIONAL IMPOSITIONS, from 29 Sept. 1694 to 28 Sept. 1895. Cr.

	£ s. d.	£ s. d.
By Payments into the Exchequer, viz.:—		
From 29 Sept. to 24 Dec. 1694	7,810 4 4¾	
To 30 March 1695	7,985 10 8¼	
To 29 June	10,416 2 1	
To 28 Sept.	18,635 15 3	
		44,847 12 5
By Debentures and Allowances:—		
From 29 Sept. to 24 Dec. 1694	656 0 9½	
To 30 March 1695	1,270 9 11½	
To 29 June	668 14 2½	
To 28 Sept.	1,387 0 5½	
		3,982 5 5
		48,829 17 10

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ACCOUNT of COFFEE, TEA, &c., from 29 Sept. 1694 to 28 Sept. 1695. Dr.

	£ s. d.	£ s. d.
To Receipts, viz.:—		
Of the Old Duty:—		
From 29 Sept. to 24 Dec. 1694	674 0 0	
To 30 March, 1695	615 3 0	
To 29 June	10 4 9	
		1,299 7 9
New Duty for Transports:—		
From 30 March to 29 June 1695	1,356 0 0	
To 28 Sept.	1,172 5 8	
		2,528 5 8
		3,827 13 5

ACCOUNT OF 4½ PER CENT., from 29 Sept. 1694 to 28 September 1695. Dr.

	£ s. d.	£ s. d.
To Receipts:—		
From 29 Sept. to 24 Dec. 1694	—	2,250 0 0

ACCOUNT of COINAGE, from 1 Sept. 1694 to 28 Sept. 1695. Dr.

	£ s. d.	£ s. d.
To Balance remaining in Cash, 1 Sept. 1694	—	3,445 1 2¾
To Receipts;—		
In the Port of London:—		
From 1 Sept. 1694 to 1 April 1695	1,570 8 1	
To 1 June	1,901 0 0	
To 1 August	1,939 0 0	
To 28 Sept.	817 14 9	
		6,228 2 10
In the Out Ports:—		
From 1 Sept. 1694 to 1 April 1695	1,206 8 2	
To 1 June	37 4 8	
To 1 August	479 19 8¼	
To 28 Sept.	399 13 11	
		2,123 6 5¼
		11,796 10 6

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The ACCOUNT of TONNAGE DUTY, from 29 Sept. 1694 to 23 Sept. 1695. Dr.

	£ s. d.	£ s. d.
To Receipts, viz.:—		
In the Port of London:—		
From 29 Sept. to 24 Dec. 1694	11,334 10 7	
To 30 March 1695	12,306 10 7	
To 29 June	20,412 0 0	
To 28 Sept.	17,365 4 3	
		61,418 5 5
In the Out Ports:—		
From 29 Sept. to 24 Dec. 1694	3,652 16 5¾	
To 30 March 1695	3,345 8 11¼	
To 29 June	3,002 6 5¾	
To 28 Sept.	10,219 2 11	
		20,219 14 9¾
		81,638 0 2¾

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ACCOUNT OF COFFEE, TEA, &c., from 29 Sept. 1694 to 28 Sept. 1695. Cr.

	£ s. d.	£ s. d.
By Payments into the Exchequer, viz.:—		
Of the Old Duty:—		
From 29 Sept. to 24 Dec. 1694	674 0 0	
To 30 March 1695	615 3 0	
To 29 June	10 4 9	
		1,299 7 9
New Duty for Transports:—		
From 30 March to 29 June 1695	1,356 0 0	
To 28 Sept.	1,172 5 8	
		2,528 5 8
		3,827 13 5

ACCOUNT of 4½ PER CENT., from 29 Sept. 1694 to 28 Sept. 1695. Cr.

	£ s. d.	£ s. d.
By Payments into the Exchequer:—		
From 29 Sept. to 24 Dec. 1694	—	2,250 0 0

ACCOUNT of COINAGE, from 1 Sept. 1694 to 28 Sept. 1695. Cr.

	£ s. d.	£ s. d.
By Payments into the Exchequer:		
From 29 March to 29 June 1695	3,020 0 0	
To 28 Sept.	2,112 10 0	
		5,132 10 0
By Debentures paid:—		
From 1 Sept. 1694 to 1 April 1695	106 18 9	
To 1 June	16 13 6	
To 1 August	16 14 9½	
To 28 Sept.	8 12 6	
		148 19 6½
		5,281 9 6½
By Balance remaining in Cash, 28 Sept. 1695	—	6,515 0 11½
		11,796 10 6

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The ACCOUNT of TONNAGE DUTY, from 29 Sept. 1694 to 28 Sept. 1695. Cr.

	£ s. d.	£ s. d.
By Payments into the Exchequer:—		
From 29 Sept. to 24 Dec. 1694	14,987 7 0¾	
To 30 March 1695	15,651 19 6¼	
To 29 June	23,335 18 11¾	
To 28 September	26,931 10 2	
		80,906 15 8¾
By Incidents:—		
From 30 March to 29 June 1695	78 7 6	
To 28 Sept.	652 17 0	
		731 4 6
		81,638 0 2¾

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The ACCOUNT of EXCISE GENERAL, from 1 Oct. 1694 to 30 Sept. 1695. Dr.

	£ s. d.	£ s. d.	£ s. d.
To Balance remaining in Cash, 1 Oct. 1694 -	—	—	19,624 5 8½
To Receipts of the following Branches, viz.:—			
Of Hereditary and Temporary:—			
From 1 Oct. to 31 Dec. 1694 - - -	112,487 8 6		
To 1 April 1695 - - - - - -	104,305 19 6¾		
To 1 July - - - - - - -	112,355 17 7¼		
To 30 Sept. - - - - - - -	119,442 16 2½		
		448,592 1 10½	
Additional 9d. and Double 9d.:—			
From 1 Oct. to 31 Dec. 1694 - - -	72,527 0 5		
To 1 April 1695 - - - - - -	67,513 19 1½		
To 1 July - - - - - - -	72,054 10 10½		
To 30 Sept. - - - - - - -	77,453 14 3¾		
		283,549 4 8¾	
Double 21d. and 30d.:—			
From 1 Oct. to 31 Dec. 1694 - - -	277 6 3¾		
To 1 April 1695 - - - - - -	116 8 5		
To 1 July - - - - - - -	186 2 4½		
To 30 Sep - - - - - - -	15 7 10¾		
		595 5 0	
Excise for 99 Years:—			
From 1 Oct. to 31 Dec. 1694 - - -	36,464 8 8¾		
To 1 April 1695 - - - - -	33,680 9 2		
To 1 July - - - - - - -	36,847 14 7		
To 30 Sept. - - - - - - -	39,408 5 5¼		
		146,400 17 11	
Additional Impost on Brandy:—			
From 1 Oct. to 31 Dec. 1694 - - -	598 9 10¼		
To 1 April 1695 - - - - - -	550 9 4		
To 1 July - - - - - - -	4,233 4 3¾		
To 30 Sept. - - - - - - -	3,058 7 11½		
		8,440 11 5½	
Low Wines:—			
From 1 Oct. to 31 Dec. 1694 - - -	4,152 12 9¼		
To 1 April 1695 - - - - - -	3,693 15 7¾		
To 1 July - - - - - - -	2,349 15 1		
To 30 Sept. - - - - - - -	2,258 5 11		
		12,454 9 5	
			906,032 10 4¾
Transported -	—	—	925,656 16 1¼

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	925,656 16 1¼

General State of Receipts and Payments, &c.

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The ACCOUNT of EXCISE GENERAL, from 1 Oct. 1694 to 30 Sept. 1695. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer, viz.:—			
Of Hereditary and Temporary:—			
From 1 Oct. to 31 Dec. 1694 - - -	13,406 4 1½		
To 1 April 1695 - - - - - -	2,000 0 0		
To 1 July - - - - - - -	2,900 0 0		
To 30 Sept. - - - - - -	14,100 0 0		
		32,406 4 1½	
Additional 9d. and Double 9d.:—			
From 1 Oct. to 31 Dec. 1694 - - -	76,082 15 5		
To 1 April 1695 - - - - -	64,987 19 0		
To 1 July - - - - - - -	71,504 16 4½		
To 30 Sept. - - - - - - -	78,315 6 2		
		290,890 16 11½	
Double Excise:—			
From 1 Oct. to 31 Dec. 1694 - - -	54 17 8		
To 1 April 1695 - - - - -	0 8 1½		
To 1 July - - - - - - -	137 8 1½		
To 30 Sept. - - - - - - -	2 18 2		
		195 12 1	
21d. and 30d. per Barrel:—			
From 1 Oct. to 31 Dec. 1694 - - -	473 11 0½		
To 1 April 1695 - - - - -	116 0 3		
To 1 July - - - - - - -	48 14 3		
To 30 Sept. - - - - - -	12 9 9		
		650 15 3½	
Excise for 99 Years:—			
From 1 Oct. to 31 Dec. 1694 - - -	38,204 8 11		
To 1 April 1695 - - - - -	32,418 13 9½		
To 1 July - - - - - - -	36,571 12 3½		
To 30 Sept. - - - - - -	39,789 1 7½		
		146,983 16 7½	
Additional Impost on Brandy:—			
From 1 Oct. to 31 Dec. 1694 - - -	593 9 10½		
To 1 April 1695 - - - - -	550 9 4		
To 1 July - - - - - - -	3,951 13 8		
To 30 Sept. - - - - - - -	3,152 8 7½		
		8,253 1 6	
Low Wines:—			
From 1 Oct. to 31 Dec. 1694 - - -	4,300 13 11		
To 1 April 1695 - - - - -	3,563 14 8½		
To 1 July - - - - - - -	2,425 6 1		
To 30 Sept. - - - - - - -	2,462 5 3		
		12,751 19 11½	
By Tallies paid on Account of Pensions, &c., viz.:—			492,132 6 6½
To the Duchess of Buccleugh:—			
From 1 Oct. to 31 Dec. 1694 - - -	1,400 0 0		
To 1 April 1695 - - - - -	1,300 0 0		
To 1 July - - - - - - -	1,300 0 0		
To 30 Sept. - - - - - -	1,300 0 0		
		5,300 0 0	
Transported -	—	5,300 0 0	492,132 6 6½

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	5,300 0 0	492,132 6 6½
To the Duke of Southampton:—			
From 1 Oct. to 31 Dec. 1694 - - -	1,075 0 0		
To 1 April 1695 - - - - -	1,000 0 0		
To 1 July - - - - - - -	250 0 0		
To 30 Sept. - - - - - - -	550 0 0		
		2,875 0 0	
Duke of Grafton:—			
From 1 Oct. to 31 Dec. 1694 - - -	500 0 0		
To 1 April 1695 - - - - -	500 0 0		
To 1 July - - - - - - -	1,000 0 0		
To 30 Sept. - - - - - - -	500 0 0		
		2,500 0 0	
Duchess of Grafton:—			
From 1 Oct. to 31 Dec. 1694 - - -	250 0 0		
To 1 April 1695 - - - - -	250 0 0		
To 1 July - - - - - - -	500 0 0		
To 30 Sept. - - - - - - -	250 0 0		
		1,250 0 0	
Transported -	—	11,925 0 0	492,132 6 6½

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The Account of Excise General—*cont.* Dr.

	£ s. d.	£ s. d.	£ s. d.
Transported	—	—	925,656 16 1¼

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	925,656 16 1¼
To an Error of 2*l.* undercharged in the Receipts, and 1*d.* overcharged in the Payments in their preceding Account.	—	—	2 0 1
			925,658 16 2¼

General State of Receipts and Payments, &c. 1695-6.

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The Account of EXCISE GENERAL—*cont.* Cr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	11,925 0 0	492,132 6 6½
Duke of Northumberland:—			
From 1 Oct. to 31 Dec. 1694 - - -	1,150 0 0		
To 1 April 1695 - - - - - -	1,250 0 0		
To 1 July - - - - - - -	700 0 0		
To 30 Sept. - - - - - - -	1,300 0 0		
		4,400 0 0	
Sir William Killigrew:—			
From 1 Oct. to 31 Dec. 1694 - - -	125 0 0		
To 1 April 1695 - - - - - -	125 0 0		
To 1 July - - - - - - -	125 0 0		
To 30 Sept. - - - - - - -	125 0 0		
		500 0 0	
In Satisfaction of Loan:—			
From 1 Oct. to 31 Dec. 1694 - - -	72,214 13 11		
To 1 April 1695 - - - - - -	66,457 14 7		
To 1 July - - - - - - -	77,334 6 2½		
To 30 Sept. - - - - - - -	76,937 6 1½		
		292,944 0 10	309,769 0 10
To the Prince of Denmark:—			
From 1 Oct. to 31 Dec. 1694 - - -	13,500 0 0		
To 1 April 1695 - - - - - -	13,500 0 0		
To 1 July - - - - - - -	13,000 0 0		
To 30 Sept. - - - - - - -	13,500 0 0		
		53,500 0 0	
The Queen Dowager:—			
From 1 Oct. to 31 Dec. 1694 - - -	3,552 8 9½		
To 1 April 1695 - - - - - -	4,052 8 9½		
To 1 July - - - - - - -	2,552 8 9½		
To 30 Sept. - - - - - - -	3,552 8 9½		
		13,709 15 2	
The Bailiffs of Yarmouth:—			
From 31 Dec. 1694 to 1 April 1695 - -	—	160 0 0	
			67,369 15 2
Transported -	—	—	869,271 2 6½

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	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	869,271 2 6½
By Interest for Loans:—			
From 1 Oct. to 31 Dec. 1694 - - -	2,398 16 1¾		
To 1 April 1695 - - - - - -	4,270 18 0½		
To 1 July - - - - - - -	4,456 19 6¼		
To 30 Sept. - - - - - - -	3,242 17 7½		
		14,369 11 4	
Interest Tallies:—			
From 1 April to 1 July 1695 - - -	1 10 0		
To 30 Sept. - - - - - -	4 16 0		
		6 6 0	
			14,375 17 4
By Salaries:—			
From 1 Oct. to 31 Dec. 1694 - - -	5,332 11 6		
To 1 April 1695 - - - - - -	5,423 1 0		
To 1 July - - - - - - -	5,434 5 8		
To 30 Sept. - - - - - - -	5,494 9 4		
		21,684 7 6	
By Incidents:—			
From 1 Oct. to 31 Dec. 1694 - - -	3,085 4 3		
To 1 July 1695 - - - - - -	2,010 13 6		
		5,095 17 9	
			26,780 5 3
			910,427 5 1½
By Balance remaining in Cash, 30 Sept. 1695	—	—	15,231 11 0¾
			925,658 16 2¼

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The ACCOUNT of SALT EXCISE, from 1 Oct. 1694 to 30 Sept. 1695. Dr.

	£ s. d.	£ s. d.	£ s. d.
To Balance remaining in Cash, the 1 October 1694.	—	—	1,386 12 0
To Receipts, viz.:—			
From 1 Oct. to 31 Dec. 1694	—	16,195 11 3	
To 1 April 1695	—	12,406 16 0½	
To 1 July	—	10,998 10 0¼	
To 30 Sept.	—	21,091 7 8¾	
			60,692 5 0½
			62,078 17 0½

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The ACCOUNT of the POST OFFICE, from 29 Sept. 1694 to 30 Sept. 1695. Dr.

	£ s. d.	£ s. d.	£ s. d.
To Balance remaining in Cash, 29 Sept. 1694		—	752 3 2
To Receipts:—			
From 29 Sept. to 31 Dec. 1694		22,047 12 1	
To 1 April 1695		23,217 3 8	
To 1 July		21,607 4 3	
To 30 Sept.		21,040 9 9	
			87,912 9 9
Total transported		—	88,664 12 11

General State of Receipts and Payments, &c.

1695–6.

No. 996.

Page 32—*cont.*

The ACCOUNT of SALT EXCISE, from 1 Oct. 1694 to 30 Sept. 1695. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer :—			
From 1 Oct. to 31 Dec. 1694	—	17,318 3 3	
To 1 April 1695	—	9,947 2 0½	
To 1 July	—	9,891 5 2½	
To 30 Sept.	—	22,145 18 10½	
			59,302 9 4½
By Allowances for Herrings Exported :—			
From 31 Dec. 1694 to 1 April 1695	748 19 6		
To 1 July	485 16 0		
		1,234 15 6	
By Salaries and Incidents :—			
From 31 Dec. 1694 to 1 April 1695	90 0 0		
To 1 July	295 3 4		
To 30 Sept.	3 19 10		
		389 3 2	
			1,623 18 8
			60,926 8 0½
By Balance remaining in Cash, 30 Sept. 1695	—	—	1,152 9 0
			62,078 17 ½

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The ACCOUNT of the POST OFFICE, from 29 Sept. 1694 to 30 Sept. 1695. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer :—			
From 31 Dec. 1694 to 1 April 1695	—	2,135 0 0	
To 1 July	—	3,065 9 8	
			5,200 9 8
By Tallies paid, several, viz.:—			
For the Works :—			
From 29 Sept. to 31 Dec. 1694	2,000 0 0		
To 1 April 1695	6,500 0 0		
To 1 July	3,500 0 0		
To 30 Sept.	6,705 9 2		
		18,705 9 2	
The Gardens :—			
From 1 July to 30 Sept. 1695	—	600 0 0	
The Duchess of Grafton :—			
From 1 April to 1 July 1695	—	3,000 0 0	
Band of Pensioners :—			
From 1 April to 1 July 1695	2,400 0 0		
To 30 Sept.	3,300 0 0		
		5,700 0 0	
In satisfaction of Loan :—			
From 29 Sept. to 31 Dec. 1694	6,000 0 0		
To 1 April 1695	3,177 8 3		
To 30 Sept.	1,500 0 0		
		10,677 8 3	
			38,682 17 5
By Pensions paid, viz.:—			
To the Duke of Leeds :—			
From 29 Sept. to 31 Dec. 1694	875 0 0		
To 1 April 1695	875 0 0		
To 1 July	875 0 0		
To 30 Sept.	875 0 0		
		3,500 0 0	
Duchess of Cleveland :—			
From 1 April to 1 July 1695	1,300 0 0		
To 30 Sept.	1,050 0 0		
		2,350 0 0	
Earl of Rochester :—			
From 29 Sept. to 31 Dec. 1694	1,300 0 0		
To 1 April 1695	1,300 0 0		
To 1 July	1,300 0 0		
To 30 Sept.	1,300 0 0		
		5,200 0 0	
Duke of Schonberg :—			
From 29 Sept. to 31 Dec. 1694	1,000 0 0		
To 1 April 1695	2,000 0 0		
To 1 July	2,000 0 0		
To 30 Sept.	1,000 0 0		
		6,000 0 0	
Sir John Somers :—			
From 29 Sept. to 31 Dec. 1694	500 0 0		
To 1 April 1695	500 0 0		
To 1 July	500 0 0		
To 30 Sept.	500 0 0		
		2,000 0 0	
Transported	—	19,050 0 0	43,833 7 1

1695–6.

Accounts Commissioners.

No 996.

Page 35.

The Account of the Post Office--*cont.* Dr.

	£	s.	d.	£	s.	d.
Total transported -	—			88.664	12	11

General State of Receipts and Payments, &c. 1695–6.

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No. 996.

The ACCOUNT of the POST OFFICE—*cont.* Cr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	19,050 0 0	43,883 7 1
To William Dockwra:—			
From 29 Sept. to 31 Dec. 1694 - - -	125 0 0		
To 1 April 1695 - - - - - -	125 0 0		
To 1 July - - - - - - -	125 0 0		
To 30 Sept. - - - - - - -	125 0 0		
		500 0 0	
By Interest for Loans:—			19,550 0 0
From 29 Sept. to 31 Dec. 1694 - - -	—	103 0 9	
To 1 April 1695 - - - - - -	—	24 1 6	
To 30 Sept. - - - - - - -	—	17 4 7	
			144 6 10
By Packet Boats:			
From 29 Sept. to 31 Dec. 1694 - - -	5,443 19 11		
To 1 April 1695 - - - - - -	2,801 1 9		
To 1 July - - - - - - -	2,598 1 1		
To 30 Sept. - - - - - - -	2,469 9 5		
		13,312 12 2	
Salaries:—			
From 29 Sept. to 31 Dec. 1694 - - -	1,667 1 8		
To 1 April 1695 - - - - - -	1,662 1 8		
To 1 July - - - - - - -	1,711 7 8		
To 30 Sept. - - - - - - -	1,658 17 8		
		6,699 8 8	
Incidents:—			
From 29 Sept. to 31 Dec. 1694 - - -	1,269 16 2		
To 1 April 1695 - - - - - -	1,554 2 4		
To 1 July - - - - - - -	782 7 2		
To 30 Sept. - - - - - - -	673 12 8		
		4,279 18 4	
			24,291 19 2
			87,869 13 1
By Balance remaining in Cash, 30 Sept. 1695 -	—	—	794 19 10
			88,664 12 11

Signed P. Foley, Ro: Harley, H. Boyle, Tho: Pope Blount. *Endorsed* as received this day from the Commissioners of Public Accounts. L. J., XV. 654. [The House, on the 23rd, had ordered the Commissioners appointed by a late Act of Parliament to examine take and state the Public Accounts to send with all convenient speed in writing a State of the said Public Accounts (*ib.* 649).]

1695-6. — No. 997.

997. Jan. 31. Fownes' Estate Act.—Draft of an Act to enable John Fownes, Esqre, to sell certain lands in the County of Devon which were settled on his marriage, and to settle other lands of an equal value to the same uses. No Amendment in either House. [Read 1ª this day; Royal Assent 24 Feb. L. J., XV. 656, 679. 7 & 8 Will. III. c. 24 in Long Cal. *See also* Com. Book, 7 Feb.]

Annexed:—

(*a*) 7 Feb.—Statement setting out the provisions of the Bill, signed and sealed, as consenting thereto, by Robert Northleigh, Trustee of the marriage Settlement, and Edward Yarde, father of Anne Fownes, in presence of Giles Yarde, James Yarde, and Da: Jones; by John Fownes and Anne his wife, in presence of Amy Yarde, Chas. Fortescue, and Margaret Hooke; and by Edward Yarde, brother of Anne Fownes, and a Trustee of her marriage Settlement, in presence of Wm. Simon and John Addis. *Dated* 23 Jan., and produced before the Select Committee this day. Com. Book.

(*b*) 7 Feb.—Affidavit of Giles Yarde, of Churston Ferrers, Devon, Gent., sworn on 23 Jan. before Rich: Hillersdon at Totnes, that he saw the above consent executed by Robert Northleigh on 22 Jan. and by Edward Yarde the Elder on 23 Jan. [appended to preceding].

(*c*) 7 Feb.—Affidavit of Chas. Fortescue, of St. Budocke, Devon, Gent., sworn on 24 Jan. before Edw. Pollexfen at Plymouth, that he saw the above consent executed by John and Anne Fownes on 24 Jan. [appended to (*a*)].

998. Feb. 1. Sir William Williams (Reversal of Judgment) Bill.—Commons' Engrossment of an Act for reversing a Judgment given against Sir William Williams for what he did as Speaker of the House of Commons, and for asserting the rights and freedom of Parliament. Whereas an Information was exhibited in the Court of King's Bench in Trinity Term in the six and thirtieth year of the reign of the late King Charles the Second against William Williams, Esquire, Speaker of the House of Commons in the Parliament held at Westminster the five and twentieth day of October in the two and thirtieth year of the reign of the said late King, for the acting and proceeding of the said William Williams, Esquire, now Sir William Williams, Knight and Baronet, in Parliament, by the order and command of the Commons in that Parliament, as their Speaker sitting in the said Parliament, in manifest violation and contempt of the rights, privileges, and freedom of proceedings in Parliament; and whereas the Judgment of the said Court of King's Bench in Easter Term in the second year of the reign of the late King James the Second, upon the plea of the said Sir William Williams to the said Information exhibited, is illegal and against the freedom and rights of Parliament, contrary to the laws and constitution of Parliament, and is pernicious and may be of dangerous consequence to the freedom of proceedings in Parliament; and that the same may not hereafter be brought into example or precedent for the said Court of King's Bench, or any other Court out of Parliament, to assume a power or jurisdiction to question, implead, or impeach the Speaker or any member of either House of Parliament for their actings or proceedings in Parliament, or by the order or command of either House of Parliament, or to question, punish, fine, censure, imprison, or adjudge them for the same, such matters and proceedings are hereby declared to be only cognizable in Parliament, and ought not

1695-6.

No. 998.

to be questioned or intermeddled with by any Court out of Parliament; and whereas the said Court of King's Bench did by the said Judgment set an arbitrary, excessive, and unprecedented fine of ten thousand pounds upon the said Sir William Williams for his said aetings and proeeedings in Parliament; and the said Sir William Williams was in July in the said second year of the reign of the said late King James the Second, by Capias out of the said Court of King's Beneh and other unwarrantable and grievous proeeedings, eonstrained to pay eight thousand pounds into the Exchequer in satisfaetion of the said fine, as by tallies of reeeipt for the same doth appear; wherefore, for the asserting and declaring, as well of the rights, privileges, and freedom of proceedings in Parliament, and of the Speakers and members thereof, as for the vindicating and righting of the said Sir William Williams in his said proeeeding in Parliament, be it enacted, &c., that the said Judgment given in the Court of King's Beneh against the said Sir William Williams be and is hereby reversed, annulled, and made and declared void to all intents, constructions, and purposes, as if the said Judgment had never been given. *Parchment Collection.* [Brought from the Commons this day. Read 1ª on 14 Feb., and a Committee appointed to examine what hath been done upon Bills for reversing Judgments whieh have begun in the House of Commons. L. J., XV. 657, 669. The Committee met on 21 Feb., and reported three preeedents, and the Bill was read 2ª and committed. L. J., XV. 676; Com. Book. No further proeeedings.]

999. Feb. 4. Sir Cæsar Wood *v.* Webb.—Petition and Appeal of Sir Cæsar Wood, *alias* Cranmer, Knt. Thomas Wood, the elder, deeeased, left three sons and two daughters, viz., Sir Henry, Knt. and Bart., John, and Thomas, late bishop of Lichfield and Coventry, and Mary, married to Samuel Cranmer, Petitioner's father, and afterwards to Sir Henry Chester, Knight of the Bath, and Elizabeth, married to Anthony Webb. Sir Henry had a fee simple estate worth about 4,000*l.* a year, which, on the betrothal of his only child Mary, aged seven, to Charles Duke of Southampton, aged eleven (*See* Hist. MSS. Commission, 14th Rep., App. No. 597), he on 22 and 23 May 1671 vested in trustees, of whom Petitioner alone survives, in trust, in case the marriage took place after Mary was sixteen, and she had issue male by the Duke, for her and the Duke, and the survivor of them, and for their issue male suecessively in tail male, and failing male issue on their daughters severally in tail; and, for default of any issue, in trust for sueh persons and uses as appointed by Sir Henry's will; and, for want of such will, in trust for Sir Henry's right heirs. The next day Sir Henry made a will leaving his property, if the marriage did not take plaee aeeording to the settlement, or the Duke died without issue begotten of Mary, to Mary and her male issue in tail male or her daughters in tail suceessively, and for default of sueh issue to Thomas Wood, D.D., the late bishop, and his issue male and female successively in tail in like manner; failing them to Lady Chester and Petitioner, her son, and his sons Henry and Charles Cranmer, and their respective issue male successively in tail male, on condition that they should take the name of Wood; and failing them to Elizabeth Webb and her son Thomas and his issue male, with remainder to Henry Webb and his issue male, also in tail male, with the like eondition; and, after the determination of those estates, to Sir Henry's right heirs. Sir Henry died the next day, and Mary married the Duke, but before she was 16, and died without issue on 15 Nov. 1680. Upon her death (Mary Kirke, daughter of John

1695–6. — No. 999. Kirke and Mary, daughter of John Wood, the second son, being then Sir Henry's right heir) Dr. Thomas Wood entered upon the property and enjoyed it for twelve years without any interruption from Mary Kirke, and died without issue in April 1692, about which time also Mary Kirke died; and, Lady Chester being dead, Petitioner succeeded to the property. In 1693, however, Thomas Webb, contending that the will could not come into operation during the Duke's lifetime and that the estate therefore devolved on heirs general until his death, claimed half of the estate as coheir with the Petitioner, all the other heirs being dead, and obtained a Decree in Chancery in his favour. Petitioner, founding upon the clear intention of the will, in accordance with which Mary Kirke did not succeed, though as heir general she would have been entitled before the bishop, appeals against the Decree. *Signed* Cæsar Wood, *alias* Cranmer, and *countersigned* Fr: Pemberton, Tho: Powys, Wm. Dobyns, and Mortmr. Folkes. L. J., XV. 659. [At the hearing, on 14 March, *Sir Thomas Powys* and *Mr. Finch* appeared for Appellant, and *Sir Bartholomew Shore* and *Mr. Pooley* for Respondent. Appeal dismissed. MS. Min.; L. J., XV. 705.]

Annexed :—

(*a*) 17 Feb. Answer of Thomas Webb.—It was decided in another cause that the marriage was according to the settlement. The will cannot take effect until the Duke's death. *Signed by* Respondent, and *countersigned* by D. Foucault. *Endorsed* as brought in this day. *See also* L. J., XV. 705.]

1000. Feb. 7. Ryder's Estate Act.—Draft of an Act to confirm and establish an exchange made between Thomas Ryder, Esq., and Christopher Clitherow, Esq., of certain messuages in London for the Manors of Bilsington and other lands in Kent of the like value. No Amendment in either House. [Read 1ª this day; Royal Assent 7 March. L. J., XV. 662, 697. 7 & 8 Will. III. c. 35 in Long Cal. *See also* Com. Book, 12 Feb.]

1001. Feb. 7. Midford's Estate Act.—Amended Draft of an Act for enabling Trustees to sell the Manor of Pespoole in the County of Durham, part of the Estate of William [Mitford] *Midford*, an Infant, for payment of Debts and Incumbrances charged thereon, and for preserving the rest of the said Infant's Estate. The only Amendments made were to correct the name in the title, to state the debts as 3,250*l.* instead of 3,150*l.*, to add the names of the trustees, and to make the debt of Thomas Stroud a first charge. No Amendments in the Commons. [Read 1ª this day; Royal Assent 7 March. L. J., XV. 662, 697. 7 & 8 Will. III. c. 37 in Long Cal. *See also* Com. Book, 18 Feb.]

Annexed :—

(*a*) 18 Feb.—Consent of Mercy Briscoe, mother and guardian to John Briscoe, grandson and heir of William Briscoe, a mortgagee, knowing her son is only seized in trust for Mathias Partis, Esq. *Signed* 7 Feb., and *attested* by James Howard, William Sunton, by his mark, and Jo: Muncaster. [Read this day before Select Committee. Com. Book.]

(*b*) 18 Feb.—Consent of Katherine Beadnell, widow, kinswoman and executrix of William Midford, the Infant's grandfather. *Signed* 10 Feb., and *attested* by Jesse Jenkinson, Hen. Liddell, Wm. Sunton, by his mark, and Jo: Muncaster. [Read this day before Select Committee. Com. Book.]

1695-6. — No. 1001.

(*c*) 18 Feb.—Consent of Jane Midford, widow, mother of the Infant. *Signed* 10 Feb., and *attested* by Robt. Roper, Fra: Roper, and Jo: Muncaster. She further prays that Henry Liddell and William Lambton, Esqres., may be the trustees. [Read this day before Select Committee. Com. Book.]

(*d*) 18 Feb. Lords' Amendments made in Select Committee this day. The substance of them is given above. Com. Book.

1002. Feb. 10. Writ of Summons (L. Chandos).—Writ of Summons, dated 12 Oct. 1695, to James, L. Chandos. [Took the Oaths this day. L. J., XV. 664.]

1003. Feb. 10. Writ of Summons (E. Tankerville).—Writ of Summons, dated 12 Oct. 1695, to Ford, E. Tankerville. [Introduced this day. The date is 11 Oct. in L. J., XV. 664.]

1004. Feb. 10. Sir Wm. Barkham's Estate Act.—Amended Draft of an Act for making good the last Will of Sir William Barkham, Bart., deceased, and vesting of lands in Trustees to be sold for payment of his debts and making provision for his children. No Amendment in the Commons. [Read 1ª this day. Royal Assent 10 April. L. J., XV. 665, 733. 8 Will. III. c. 59 in Long Cal. *See also* Com. Book, 18 Feb.]

Annexed :—

(*a*) Paper Copy of the Bill as amended in Committee.

(*b*) 18 Feb.—Lords' Amendments in Select Committee this day, consisting of the addition of the trustees' names. Com. Book.

1005. Feb. 11. Lee Warner *v.* Widows of Bromley College.—Petition and Appeal of Lee Warner, Gent. Dr. John Warner, by his will of 24 Sept. 1666, gave out of his manor of Swayton 400*l.* for ever for the maintenance of twenty poor widows of orthodox and loyal clergymen, and a chaplain, to minister according to the Church of England, to whom he bequeathed 50*l.* a year. The almshouse was to be built out of his personal estate, and to be repaired out of the 450*l.*, and the widows to be selected by his executors, and afterwards by trustees. He left Swayton, thus charged, to Doctor John Lee until his son attained the age of 22, when he was to have the estate and take the name of Warner; and he named as his executors L. C. J. Bridgman, Sir Philip Warwick, Dr. Pierce, President of Magdalen College, Oxford, and John Lee, Archdeacon of Rochester. The hospital was built and called Bromley College. An Act of 22 Car. II. charged the estate with 5*l.* a year more for the repairs. In June 1693 a Commission of Charitable Uses decreed that Petitioner should pay the trustees, quarterly instead of yearly, 20*l.* a year for each of the widows, free of any charge for repairs; should pay 40*s.* a year to the widows for 2 acres of land wrongfully withheld from them; should reinstate one Mrs. Grace Featly, who had been appointed and then turned out by Dr. Pierce, the last surviving executor, Mrs. Oliver being appointed in her stead, and should pay Mrs. Featly three years' arrears; and should be put out of the trust. This was confirmed by a Decree in Chancery, against which Petitioner appealed on 8 March 1693–4 (L. J., XV. 388); but a second Commission of Charitable Uses was granted which amended the Decree of the former one, and satisfied Petitioner, so that he withdrew his Appeal. The widows, however, by direction of the trustees, petitioned the Lord Keeper against the second decree, objecting that the granting of a second Commission was irregular. The second Decree was thereupon reversed. Appeals against the first Decree and the reversal of

1695–6. — No. 1005. the second. *Signed* Lee Warner, and *countersigned* R. Baldwin and Dan: Bedingfeld. L. J., XV. 666. [At the hearing, on 3 March, *Sir Tho: Powys* and *Sir Bartholomew Shore* appeared for the Appellant, and the Respondent was represented by *Mr. Finch* and *Mr. Dobyns*, the latter of whom objected to the jurisdiction of the House, but was overruled. After argument, the *Abp. of Canterbury* gave the House an account of the proceeding as to the Commissioners of Charitable Uses, and what they had done as to Mr. Warner, and stated that they had strained a point on his behalf. The Appeal was dismissed. MS. Min.; L. J, XV. 691.]

Annexed :—

(*a*) 21 Feb.—Several Answers of William North, Gent., and Grace Featly, widow, on behalf of herself and other the widows of Bromley College, Kent. Grace Featly was turned out by Appellant, not by Dr. Pierce. Only a few of the trustees, and none of the widows, agreed to the second Decree. Repeat the contentions of the First Decree. *Signed* J. Bennett. *Endorsed* as brought in this day. *See also* L. J., XV. 691.

(*b*) Answer of William North, Gent., on behalf of the widows, to Warner's first Appeal, which was afterwards withdrawn. Identical with the first part of preceding. *Signed* Wm. North, and *countersigned* T. Vernon. *Endorsed* as brought in 15 March 1693–4.

1006. Feb. 12. Trade with France Prevention Bill.—Draft of an Act to prevent trade and correspondence with France. Whereas several laws have been made to prevent trade and correspondence with France, notwithstanding which the same is still continued and carried on, chiefly by the conveniency of a speedy passage, by the French privateers bringing over their manufactures and returning with wool to France, which tends to the impoverishing of thousands employed in the manufactures of wool and silks in this nation, thereby lowering the rents of land and decreasing the revennes of the Crown. And whereas these practices are carried on by the French privateers frequent[ly] lying on the coasts of Kent and Sussex, whereby they not only acquaint themselves with our creeks and landing places, to the danger of the Government in general, but also frequently surprize our merchant ships and coasters, to the destruction of trade in particular. And whereas, in the first year of his Majesty's reign, an Act was made, intituled an Act for the better preventing the exportation of wool and encouraging the woollen manufactures of this kingdom, and it was enacted that the said Act should continue in force for the term of three years. And whereas the said Act was further continued by one other Act, made in the fourth year of his Majesty's reign, entituled an Act for reviving, continuing, and explaining several laws which are expired, or near expiring, with a clause (viz^{t}) that so much as related to the transportation of wool, with some alterations, was continued for the further term of three years longer; which Act being now near expiring, Be it therefore enacted &c. that the said Act be continued, with such alterations as are hereafter expressed, for the further term of years and to the end of the next Sessions of Parliament after. And whereas it was enacted in and by the said first recited Act that what wool shall be shorn and housed within five miles of the sea ought to be entered in the Custom House or next port. And whereas it is found by experience that that distance is not enough to prevent the said evils, Be it

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therefore further enacted, by the authority aforesaid, that, from and after , the said distance is and shall be enlarged to miles, any law, custom, or usage to the contrary notwithstanding. And whereas in the said Act the importation of wool from Ireland is there limited only to Liverpool, Chester, Bristol, Minehead, Barnstaple, and Bideford. And whereas the port of Bridgewater lies convenient for the furnishing of the clothiers in those parts of Somerset. Be it therefore further enacted, by the authority aforesaid, that it shall and may be lawful to import wool from Ireland into the port of Bridgewater also, any law, custom, or usage to the contrary notwithstanding. And whereas it was further enacted in and by the said Act that there was allowed to be transported from the port of Southampton to the islands of Guernsey, Jersey, Alderney, and Sark, double the quantity of wool than what was allowed in the Act made in the 12th year of the reign of King Charles the Second, (viz^{t}, one thousand tods for the island of Guernsey, two thousand tods for the island of Jersey, two hundred tods for the island of Alderney, and one hundred tods for the island of Sark, more than was allowed by the said Act). And whereas it is apparent that there are great quantities of wool, under pretence of the statute of the first year of his now Majesty's reign, shipped off for the said islands from the said town of Southampton and carried to France, to the great prejudice of the English trade in the said manufacture, to prevent which evil be it further enacted, by the authority aforesaid, that no more wool after the day of next shall be transported to the said islands than what was allowed by the said Act of the 12th of King Charles the Second aforesaid, any law, custom, or usage to the contrary in anywise notwithstanding. And whereas, notwithstanding the laws aforesaid prohibiting likewise the exportation of fuller's earth, or fulling clay, under the colour of tobacco-pipe clay, divers quantities of such earth and clay are frequently transported beyond the seas. Be it further enacted, by the authority aforesaid, that no fullers' earth, fulling clay, tobacco pipe clay, or other fulling or scouring earth be henceforth transported or exported into Scotland, Ireland, or any part or place beyond the seas out of the kingdom and dominion aforesaid, under the penalty limited by the Act made in the fourteenth year of the reign of the late King Charles the Second, any law, statute, or other provision to the contrary in anywise notwithstanding. [Read 1^{a} this day, and committed on 15th to the Select Committee on the East India Company's Charters; but never considered in Committe or reported. L. J., XV. 667, 670.]

1007. Feb. 14. Norwood *v.* Norwood.—Petition and Appeal of John Norwood. His father, Francis Norwood, being possessed of the manor of Leckhampton, Gloucestershire, and having six sons, Richard, Charles, John, Francis, William, and Thomas, and several daughters, and wanting money for payment of his debts and for portions for his children, in 1674 conveyed the demesne lands of the manor for 5,400*l.*, and the stock at a valuation, to his kinsman Col. Henry Norwood, who according to Articles executed to William Brent and David Williams, Esqs., as trustees for Francis and his family, a lease of the whole Estate for 1,000 years, which should be void if Henry Norwood assured the estate, after his death, to Francis and his eldest son Richard, and afterwards to such of the issue male of Francis as he should think fit, so that the estate might descend in the family, or if he executed to Francis and his heirs a good estate in law of the services and copyholds of the manor, &c., and paid over the money received

1695–6. — No. 1007. in the meantime for chief rents or heriots or raised by fines, and the value of the household stuff. In 1687 Henry Norwood, on the marriage of William, one of the sons of Francis, granted the manor, &c. to trustees for himself for life, then for Richard for life, then for William for life, then for William's wife, as to part, for her jointure, then for the issue male of William, for default whereof for Thomas and his issue male, failing whom for the issue male of Richard, failing whom for Charles, John, and Francis successively and their issue male, then for the right heirs of Francis the father. Francis the father died in 1682, Col. Henry and Richard in 1689, and William in 1693 without issue. Thomas is now in possession. Petitioner, on his return from beyond the seas, exhibited his Bill in Chancery, as the eldest issue male of Francis then living, against Thomas for recovery of possession and account of profits, which was dismissed by the Lord Keeper. Appeals against the dismission. *Signed* by Appellant, and *countersigned* Wm. Whitelocke, Joh: Brewer. L. J., XV. 670. [At the Hearing, on 10th March, *Sir Wm. Whitelocke* opened for Appellant. Here were Articles made that he should enjoy the estate, leaving it to advance one of the family. There are six sons, and he takes it upon him to leave it to the fifth son. *Sir Barth: Shore:* Col. Henry Norwood is but a trustee. He enjoyed it 16 years. *Sir Tho: Powys*, for Respondent: If Chancery had decreed otherwise, it had been as arbitrary as ever was done. The Colonel is an absolute purchaser. That's certain. *Mr. Northey* also heard for Respondent. Appeal dismissed. L. J., XV. 701; MS. Min.]

Annexed :—

(*a*) Feb. 28.—Answer of Thomas Norwood. Appellant has not stated wherein the dismission is erroneous. *Signed* by Respondent, and *countersigned* T. Powys. *Endorsed* as brought in this day. MS. Min. *See also* L. J., XV. 701.

1008. Feb. 17. Writ of Summons (E. Nottingham).—Writ of Summons, dated 12 Oct., 1695, to Daniel, E. Nottingham. [Took the Oaths this day. L. J., XV. 671.]

1009. Feb. 17. Davenant *v.* Midy.—Petition and Appeal of Charles Davenant, Doctor of Laws. One Joseph Pertuys owed Petitioner 200*l.* on Policies of Insurance concerning the taking or not taking of towns, taken in the names of Leaves, Tipper, and Vanlaugerken, in trust for Petitioner, who had agreed with Pertuys, when a Policy for 100*l.*, subscribed by Petitioner to Samuel Guyguer in trust for Pertuys, became due, to discount it from the 200*l.* Before it became due, one Bartholomew Midy got Pertuys to assign it to him, and then helped him to escape to France to avoid paying the 200*l.* Midy then sued Petitioner for the 100*l.*, and a Bill in Chancery brought by Petitioner to discover the dealings between Pertuys and Midy was dismissed. Appeals against the dismission. *Signed* by Appellant, and *countersigned* Wm: Whitelocke, Jno: Isham. L. J., XV. 672. [The Appeal never came to a hearing.]

Annexed :—

(*a*) Feb. 24.—Answer of Bartholomew Midy. On 21st April, 1693, Appellant subscribed a Policy of Insurance, taken by Guyguer, who kept an office of Insurance, in trust for Pertuys, of whom Appellant received 60 guineas premium, in consideration whereof Appellant was to pay Pertuys 100*l.* in case the

City of Cazal [Casale], in Montferrat, with its fortifications, was not taken by the King of Spain or Duke of Savoy's forces on or before 25th December. Guyguer endorsed the Policy, which thereby became as good as a Bill of Exchange, and assigned it to Respondent in payment of a bonâ fide debt of 350*l.* *Signed* by Respondent, and *countersigned* T. Powys, J. Jennings. *Endorsed* as brought in this day. 1695-6. — No. 1009.

1010. Feb. 17.—Jones *v.* Jones.—Petition and Appeal of Hugh Jones, Junr., Gent. Petitioner's grandfather, Edward Jones, on his marriage with Anne Massey, vested his tithes in Denbighshire in John Massey in trust, after the death of Edward and Anne and their son, Hugh Jones, senior, Petitioner's father, for the issue male of the last named, so that they ought to come to Petitioner after his father's death, and cannot be disposed of away from Petitioner. Moreover, in accordance with Articles entered into between the parties, Petitioner paid 80*l.* of his father's debts on condition of his settling half the tithes on himself for life, and the other half on Petitioner, together with the reversion of the first half, in tail general. Petitioner performed his part of the agreement, but his father sold the tithes to Sir Jeffrey Shackerley for half value. Petitioner's Bill in Chancery to have the tithes settled according to the Articles was dismissed. Appeals against the dismission, and prays that his father and Sir Jeffrey Shackerley may be ordered to answer. *Signed* by Appellant, and *countersigned*, on 14th Feb., by Ro: Price and Jno. Robins. L. J., XV. 672. [At the hearing, on 3 April, *Sir Thomas Powys* and *Sir Bartholomew Shore* appeared for the Appellant, and stated that he had not completed the payment of 80*l.* because the Agreement had not been carried out on the other side. 30*l.* a year had been conveyed for 189*l.* *Mr. Dobyns* and *Mr. Jennings* appeared for Respondents. The Order of Dismission was reversed. The question whether Sir J. Shackerley should have his whole money and interest, and account for the profits, was negatived by 20 to 11, Tellers L. Clifford and L. Ferrers, and then the Order was made as in L. J., XV. 727. MS. Min.].

Annexed:—

(*a.*) 2 March.—Petition of Appellant for leave to sue in formâ pauperis, and to have Sir Thomas Powys and Sir Bartholomew Shore assigned to him as Counsel, those assigned to him below, save only the Honble. Mr. Finch, having ceased to practise. L. J., XV. 689.

(*b.*) Order of the Master of the Rolls, dated 12 April 1689, admitting the Appellant to sue *in formâ pauperis*, and assigning to him Mr. Serjeant Phillipps, Mr. Serjeant Hutchins, Mr. Finch, and Mr. Holford as Counsel, and Mr. Garth as his Six Clerk. [Appended to preceding].

(*c.*) 2 March.—Petition of Sir J. Shackerley, Knt., for some longer time to answer, he being very ancient and not able to travel, and so far distant, in Denbighshire, and having such short notice. L. J., XV. 689.

(*d.*) 12 March.—Answer of Sir Jeffrey Shackerley, Knt. Respondent agreed to pay Appellant's father 205*l.* for the tithes, and had paid part of the purchase money before having any notice of Appellant's claim; but, on learning that Appellant had not performed his part of the Articles, he completed the purchase. Appellant's father denied the existence of any agreement with his son, with many oaths and protestations. The dismission

1695-6. — No. 1010. had been acquiesced in for seven years. *Signed* by Respondent, and *countersigned* Edward Jennings. *Endorsed* as brought in this day. *See* L. J., XV. 727.

(*e.*) 19 March.—Petition of Appellant for a short day for hearing. L. J., XV. 711.

1011. Feb. 18.—Wallop's Estate Act.—Amended Draft of an Act to enable Trustees to make and fill up Leases of the respective Estates of Blewet Wallop, Esq., and John Wallop, Gent., during their minorities, and to purchase other lands by the fines thereby to be received to the same uses as the Estates so to be leased are already settled. The Amendments in Lords' Committee, which were purely verbal, have been interlined. No Amendments in the Commons. [Read 1ª this day; Royal Assent 7 March. L. J., XV. 673, 697. 7 & 8 Will. III. c. 36 in Long Cal. *See also* Com. Book, 21 Feb.]

Annexed:—

(*a.*) 21 Feb.—Lords' Amendments made in Select Committee this day. Com. Book.

1012. Feb. 18.—Jones' Estate Act.—Amended Draft of an Act for settling the personal Estates of Richard Jones, Esq., and Mary Gifford, spinster, minors, in Trustees for the purposes therein mentioned. Amended by the names of the trustees being inserted throughout the Bill, the name of Dame Elizabeth Jones, Relict of Sir William Jones, being added to the Saving Clause, and a note made for the addition of two Clauses (*b* and *c* below) to be substituted for the original special Saving Clause for Elizabeth Pelham's legacy of 12,000*l.* from her grandfather Sir William Jones. No Amendments in the Commons. [Read 1ª this day; Royal Assent 10 April 1696. L. J., XV. 673, 733. 8 Will. III. c. 56 in Long Cal. *See also* Com. Book, 22 Feb.]

Annexed:—

(*a.*) 22 Feb.—Paper of Lords' Amendments made in Select Committee this day. Com. Book.

(*b.*) 22 Feb.—Draft of Clause charging Elizabeth Pelham's legacy of 12,000*l.* from her grandfather Sir Wm. Jones on the Manor of Isbery, &c., as a first charge. [Offered this day by her father Thomas Pelham, and added to the Bill. Com. Book.]

(*c.*) 22 Feb.—Draft of Clause containing the recital of the Indenture for the present letting of Alborne Chase, &c., by Thomas Pelham on behalf of his daughter Elizabeth, to Richard Jones' trustees for a rent of 352*l.* 10*s.*, and the sale thereof to him, at her coming of age, for 7,050*l.*, together with the enacting part to secure those objects. [Added this day in Select Committee, to follow Clause *b*, above. Com. Book.]

1013. Feb. 18.—De Nassau's Naturalisation Act.—Certificate by William Lancaster, D.D., Minister, and John Hall, churchwarden, of St. Martin's-in-the-Fields Church, that the Honble. Henry de Nassau d'Auverquerc took the Sacrament in that Church on 2 Feb. *Dated* 2 Feb., and *attested* by Evert Jollyvet, Esq., and Jeremiah Crowther. [Read this day before the Select Committee on De Nassau's Naturalisation Bill, which was brought from H.C. on 12 Feb., and received the Royal Assent on 24 Feb. L. J., XV. 667, 679: Com. Book. 7 & 8 Will. III. c. 23.]

1014. Feb. 20.—Writ of Summons (E. Rochford).—Writ of Summons, dated 12 Oct., 1695, to William, E. Rochford. [Introduced this day. L. J., XV. 675.]

1015. Feb. 20.—Fletcher's Estate Bill [H.L.]—Draft of an Act for vesting the manors of Moresby and Distington and other the lands

of William Fletcher, of Moresby, in the County of Cumberland, Esq., in Trustees, for the payment of his debts, improvement of his Estate, and other purposes therein mentioned. William Fletcher of Moresby, being seized in fee of the manors of Moresby and Distington, Cumberland, worth 250*l.* per annum, by his marriage settlement charged the lands with a jointure of 100*l.* a year for his wife Mary, with power to make a jointure of 50*l.* for any future wife, and settled them on himself (without impeachment of waste) and his wife for their lives, with remainders to their sons in tail male successively, with provisions for younger sons and portions for daughters. Two sons and three daughters were born. William Fletcher spent much in opening coal mines and building a house, and is nearly 1,500*l.* in debt and a prisoner, without hope of being able to pay his debts, or of improving his collieries and salt pans. He is therefore willing to forego his right of waste and of raising 50*l.* a year for another wife, and his wife is willing to forego 30*l.* of her jointure, in order to provide 30*l.* a year for the education of the eldest son. The Bill therefore enacts that the lands shall be vested in Thomas Lamplugh, of Lamplug, Esq., Thomas Dalston, of Skelton, Esq., William Robertson, of Cleator, Gent., and William Holmes, of Workington, Gent., all in Cumberland, in trust to raise 1,500*l.* by leases or mortgages to pay off the debts; to sell the portion of Moresby lying within 200 yards from high-water mark for building purposes, except the capital messuage, &c., and mines, the land so sold to be charged with 20*s.* an acre; and to raise 30*l.* a year for the education of the eldest son, on the conditions stated above; and otherwise to execute the marriage settlement. [Read 1ª this day, and rejected. L.J., XV. 675.] 1695–6. — No. 1015.

1016. Feb. 22. Parliamentary Elections (Qualification of Members) Bill.—Commons' Engrossment of an Act for further regulating elections of Members to serve in Parliament. For the better securing and establishing the dignity and constitution of Parliaments, it is necessary to make provision for the election of such persons to serve in Parliament who are and shall be natural subjects of this realm, born within the Kingdom of England or dominions thereunto belonging, of estates and substance sufficient to support themselves in that weighty trust and great service, and that their elections to Parliament be freely made without avail or lucre to the electors: Be it therefore enacted and declared by the King's most Excellent Majesty, etc., That no person shall hereafter be elected or returned to serve in Parliament for any county, city, borough, port, or place in the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, that is not or shall not be a natural subject of this realm and so born within the Kingdom of England, Dominion of Wales, town of Berwick-upon-Tweed, or the dominions or territories thereunto belonging.

And be it further enacted and declared That every person that is not or shall not be such natural subject of this realm, and so born within the Kingdom of England, Dominion of Wales, town of Berwick-upon-Tweed, or the dominions or territories thereunto belonging, is enacted and declared incapable, incapacitated, and disabled to be hereafter elected or returned a member to serve in Parliament for any county, city, borough, port, or place within the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, and is enacted and declared to be no member of Parliament, and to be so deemed, taken, and adjudged, and shall not sit, act, or have any vote or place in Parliament, but shall be, and is hereby enacted and declared to all intents, constructions, and purposes, as if he had been never elected or returned a member to Parliament.

1695-6. — No. 1016.

And be it further enacted, by the authority aforesaid, That every person hereafter to be elected knight of any shire or county in the Kingdom of England or Dominion of Wales, to serve in Parliament, shall have, at the respective times of such his election to serve in Parliament, an absolute known real estate of freehold or inheritance, or for years determinable upon life or lives, or copyhold of inheritance, in manors, messuages, lands, tenements, rents, or hereditaments, of the clear yearly value of five hundred pounds, in the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, for his own use and benefit, and not upon any trust, without fraud, covin, or collusion.

And be it further enacted, by the authority aforesaid, That every person hereafter to be elected member to serve in Parliament for any city, borough, port, or place within the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, shall have, at the respective times of such his election to serve in Parliament, an absolute known real estate of freehold or inheritance, or for years determinable upon life or lives, or copyhold of inheritance, in manors, messuages, lands, tenements, rents, or hereditaments, of the clear yearly value of two hundred pounds, in the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, for his own use and benefit, and not in trust, without any fraud, covin, or collusion.

And be it hereby further enacted and declared, by the authority aforesaid, That every person which shall hereafter be elected or returned to serve in Parliament for any county, city, borough, port, or place in the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, not having such estate or estates as hereinbefore enacted and declared, is hereby enacted and declared incapable, incapacitated, and disabled to be hereafter elected or returned member to serve in Parliament for any county, city, borough, port, or place within the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, and is enacted and declared to be no Member in Parliament, and to be so deemed, taken, and adjudged, and shall not sit, act, or have any vote or place in Parliament, but shall be, and is hereby enacted and declared to all intents, constructions, and purposes, as if he had been never elected or returned Member to Parliament.

And be it further enacted and declared, by the authority aforesaid, that no person having or hereafter who shall have any vote or voice in the election of any Member to serve in Parliament for any county, city, borough, port, or place within the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, after the Teste of the Writ of Summons to Parliament, or after the Teste or issuing out or ordering of the Writ or Writs of election upon the calling or summoning of any Parliament hereafter, or after any such place shall become vacant hereafter in the time of this present or of any other Parliament, shall or do hereafter, before the election of Members to serve in Parliament for such county, city, borough, port, or place within the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, directly or indirectly take, receive, or accept any money, meat, drink, entertainment or provision, present, gift or reward, office, place or employment of profit, or any preferment from any person standing, seeking, contriving, endeavouring, or desiring to be elected member to serve in Parliament for such county, city, borough, port, or place, or from any other person in his behalf, or shall at any time hereafter take, receive, make, or accept any promise, agreement, obligation, or engagement to have or obtain any money, meat, drink, provision, present, reward, office, employment, profit, or preferment from any person for

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his voice or vote, or for procuring, having, or obtaining, or in order to procure, have, or obtain any vote or voice of any person for any person standing, contriving, seeking, or desiring to be elected to serve in Parliament for any county, city, borough, port or place in the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed; and that every such person, having any vote or voice in the election of any Member to serve in Parliament, so taking, receiving, or accepting hereafter any such money, entertainment, reward, office, present, or preferment, or taking, receiving, making, or accepting any promise, agreement, obligation, or engagement as hereinbefore is enacted and declared, is hereby enacted and declared incapable, incapacitated, and disabled to vote or give any voice in any election of any Member to serve in such Parliament.

Provided always that nothing herein contained shall be construed to extend to any person or persons, not natural-born subjects of this realm, who have been or hereafter shall be naturalized, so as such person or persons that have been or who hereafter shall be naturalized be descended from parents who were natural-born subjects of this realm, and so as they have such estate or estates as are hereinbefore limited and required. *Superscribed* Le Roi s'avisera. *Parchment Collection.* [Brought from the Commons this day. (L.J., XV. 677). On 9th March the City of London were heard by Counsel on their Petition against the Bill. *See* No. 1028. The Bill was then passed without amendment (*ib.* 699). Royal Assent refused on 10th April (*ib.* 733).]

1017. Feb. 22.—Wye and Lugg Navigation Act (7 & 8 Will. III. c. 14). —Petition of the Justices of the Peace, gentlemen, and other the substantial freeholders of the Hundred of Wormelow, in the County of Hereford, whose names are subscribed. The undertaking will be for the disadvantage of Petitioners, as it will raise the price of lime and coal, and lessen that of their corn. The taking away of the fords will impede the commerce between the two banks. Are satisfied with the markets of Monmouth and Ross. Communication by land will always be sooner and cheaper than by water. Do not desire any further benefit of portage on the rivers. Do not oppose the undertaking, but pray they may not be called upon to contribute to it. Are contented that they who bear the charge shall take the profits. Bears 114 signatures. [Read this day. L. J., XV. 677. On the hearing of these and the other Petitioners, on 5 March, *Mr. Dobyns* appeared against the Bill for the freeholders of Wormelow and Ewias Lacy. He named several towns that have no advantage by this Act. *Mr. Dod* was heard on the same side. *Sir Thomas Powys* heard for the County: We hope it will not stop now. *Sir Barth: Shore* for the Bill. *Mr. Richard Kidley*, junr., says he signed the Petition. We were informed it would come to 4*d.* in the £, and that made me sign it. MS. Min. The Bill came from H. C. on 20 Feb., was committed to a Select Committee on 5 March and reported without Amendment on 7 March, and received the Royal Assent the same day. L. J., XV. 676, 696, 697. Com. Book.]

Annexed:—

(*a*) 29 Feb.—Petition of the Mayor, Bailiffs, Common Council, Gentlemen, and other inhabitants of the town of Monmouth, praying to be heard by Counsel against the Bill, which will be the utter ruin of this town and county to enrich one city. Bears 38 signatures. [Read this day. L. J., XV. 687. *See* Note to first paper.]

1695-6. — No. 1017.

(*b*) 2 March.—Petition of the Freeholders of the Hundred of Ewias Lacy, Herefordshire, whose names are subscribed, on behalf of themselves and the rest of the freeholders there. A Bill to make the Wye and Lugg navigable was brought into H. C. in 1689, whereupon Petitioners induced most of the county members to engage that they should be exempted from any charge under the Bill if it passed. The Bill has now passed the Commons without any such exemption, and Petitioners pray to be heard by Counsel against it, as it will not benefit them, they having a scarcity of commodities beyond their own necessities, especially in cider and corn; but what surplus they have they send to Monmouth and Bergavenny rather than to Hereford, which alone will reap benefit from the Bill, and therefore should alone bear the charge of it. Bears 100 signatures and marks. *Endorsed* The Petition of the Freeholders and Copyholders of the Hundred of Ewias Lacy, in the County of Hereford, who are tenants to the Right Honble. the Lord Abergavenny, who will be undone if this Bill passes, and so will a thousand more of his Lordship's tenants in the Lordship of Abergavenny, in the County of Monmouth, and my Lord and his tenants in both counties will be damnified above 6,000*l.* if the Bill passes. Bears 98 signatures. [Read this day. L. J., XV. 690. *See* Note to first paper.]

(*c*) 4 March.—Petition of the Gentlemen Freeholders and others the inhabitants of the Parish and Hundred of St. Briavel's (Gloucester). Pray to be heard by Counsel against the Bill, which will impoverish the whole Hundred by discouraging tillage, on which it chiefly depends, and otherwise. Bears 43 signatures. [Read this day. L. J., XV. 692.]

(*d*) Petition of the Mayor, Aldermen, Sheriffs, Common Council, and inhabitants of the City of Gloucester. The Bill will be very prejudicial to their City and adjacent places, as their markets are chiefly served with all sorts of corn and grain, bacon, and other provisions from the County of Hereford. Vast numbers of families will be thrown out of work, prices will rise, and the city tolls be diminished. Pray the Bill may not pass. *Dated*, under the Common Seal, 12 Feb. [Not noticed in Records.]

1018. Feb. 24.—Writ of Summons (L. Wharton).—Writ of Summons, of date, to Thomas, L. Wharton. [Sat first in Parliament this day. L. J., XV. 679.]

1019. Feb. 24.—Fenwick's Conspiracy.—King's Speech this day, on the attempt to assassinate him. L. J., XV. 679. *In extenso. See also* No. 1022. [After the King had withdrawn, House moved to read his Speech. The Speaker reported it, and read it out of the Paper, as before. *Moved* to address the King upon his Speech. *Moved* to appoint a day of solemn thanksgiving for His Majesty's great deliverance. Lords Committees appointed to draw an Address to be presented to his Majesty pursuant to the Motions made in the House: (1) a Declaration of our abhorrence; (2) a Resolution to stand by him; (3) and that he will be pleased to apprehend such as he shall think fit—any five to withdraw presently. The House was adjourned during pleasure, and the Lords withdrew to the Committee. (MS. Min.). In Select Committee, E. Tankerville Chairman,

an Address was worded and ordered to be reported. (Com. Book, 24 Feb.). After the Address was agreed to, the Order for a Thanksgiving day was made at first without the words "villainous and barbarous," which appear interlined. (MS. Min., 24 Feb., where also are given the Commons' Amendments to the Address, which may be gathered by comparing the two forms of it given in L. J., XV. 680.)]

1020. Feb. 25.—Foyle *v.* Swayne.—Petition and Appeal of Elizabeth Foyle, widow, and John Foyle, Gent. Henry Zouch mortgaged a fourth of the manor of Abbott's Anne in the County of Southampton, and a moiety of Lamiatt and Gainshams and other lands in Somerset, for 1,000*l.* to Francis Somers. Zouch's son and heir, William, a clerk with Mr. Swayne, redeemed the estate and mortgaged it, except Abbott's Anne, for 600*l.* to Thomas Wergg in trust for Swayne. When Wergg had paid himself, he conveyed it back to William Zouch, who was induced by Swayne to mortgage it to him for 600*l.* Zouch then exhibited a Bill in Chancery for a redemption, and obtained a decree, but Swayne got it altered, and threw many legal difficulties in Zouch's way. Robert Foyle and John Honor, Gent., were, at Swayne's instance, joined with Zouch in giving security in 1,200*l.* apiece to redeem; and finally Swayne got a further pretended claim of 4,652*l.* charged on the estate, prosecuted on the recognizances, thereby ruined Zouch and his sureties, and took possession of Abbott's Anne. On Foyle's death his widow, the Appellant, regained possession of the Copyholds in Abbott's Anne; but Robert Hyde, Esq., and John Clement, Gent., upon pretence of a mortgage by Swayne of his security for 1,300*l.*, claimed Abbott's Anne, and obtained a Decree in Chancery, against which Petitioners appeal, as Robert Foyle could not pledge the estate of his widow and seven children, but only his personal interest in the estate. Appellant has no other means of livelihood, though she brought a portion of 1,500*l.* Pray that Swayne, Hyde, and Clement may be ordered to answer. *Signed* by Appellants, and *countersigned* Ja: Stedman, Edwd. Foyle. L. J., XV. 682. [At the hearing, on 28 March 1696, *Sir Thomas Powys* and *Sir Bartholomew Shore* were heard for Appellants, and *Sir Will. Whiteloeke* and *Mr. Dobyns* for Respondents. MS. Min. The Appeal was dismissed. L. J., XV. 720.]

Annexed:—

(*a*) 3 March. Several Answer of William Swayne, Esq. A lease of Abbott's Anne for 99 years, determinable on the death of Lord Edward Pawlett, was purchased in 1632 to Edward and James Davis, Gent., in trust, one moiety for Henry Foyle, grandfather of Appellant John Foyle, and the other moiety for Henry and Edward Zouch, Gent. Henry Foyle concealed the lease, and filled up estates in the manor to his own children under a new lease, with his brother-in-law, Kent, as trustee; but he was afterwards forced to declare that he did so in trust for the Zouchs as regarded their share. Finally he bought in Edward Zouch's share, and continued the same practices with regard to Henry. Respondent had lent Henry Zouch's widow a great deal of money. Robert Foyle, Henry's son, at last consented that Respondent's claim should be charged on the whole of Abbott's Anne, in consideration of the profits of the whole which Robert Foyle and his father had been improperly receiving. Robert Foyle never made any Settlement for his wife and children. *Signed* by Respondent. *Endorsed* as brought in this day. *See also* L. J., XV. 720.

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(*b*) 3 March. Joint and several Answers of Robert Hyde, Esq., and John Clement, Gent. Respondents, being satisfied of Swayne's title to Abbott's Anne, lent him 1,300*l.* upon it. But, on Swayne's being ejected, they obtained a Decree putting them in his place with regard to Abbott's Anne, in order that they might obtain the benefit of the Decree which adjudged the estate to him. Are strangers to any of the other proceedings. *Signed* by Respondents, and *countersigned* Wm. Norris. *Endorsed* as brought in this day. *See also* L. J., XV. 720.

1021. Feb. 25.—St. James' Parish [Westminster] Act.—Draft of Proviso against placing any more than two bells in the church or steeple. [Offered in C. W. H. this day, and added to the Bill. MS. Min. and L. J., XV. 682. The Bill was brought from the Commons on 10 Feb., and received the Royal Assent on 7 March. L. J., XV. 664, 697. 7 & 8 Will. III. c. 31 in Long Cal.].

1022. Feb. 26.—Association for King's Safety (State of the Nation). Amended Draft of the Association for the safety of the King's person and defence of his government, reported to the House this day. L.J. XV. 683. *In extenso.* The original Draft read as follows :—

. . . . and declare that his present Majesty King William is rightful and lawful King of these Realms. And we do mutually promise and engage to stand by and assist each other to the uttermost of our power in the support and defence of His Majesty's most sacred person and Government against the late King James and all his adherents: And in case his Majesty come to any violent, &c., as in L.J.

[In consequence of the attempt on the King's life reported in the King's Speech on 24 Feb. (No. 1019), the House this day, pursuant to Order of 25 Feb., went into consideration of the present State of the Nation. *Moved* that the best way of securing us is to show an union among ourselves, or, at least, those that may will. A Paper was proposed to be read, and opened. House *moved* that the House be put into a Committee. The House was adjourned during pleasure, and put into a Committee to consider of the State of the Nation, E. Bridgewater in the Chair. A Paper was offered to be read. It was debated whether the Paper be received. *Proposed* that it be agreed to have an Association. A Head proposed, to be part of the Association ("We whose names are hereunto subscribed do heartily, sincerely, " and solemnly profess, testify, and declare that his present Majesty " King William is rightful and lawful King of these realms.") *Proposed* to enter into an Association for the preservation of the King's person and the safety of the kingdom. The Head was read (as above), then the rest of the above Paper of Association as originally drafted. *Proposed* to agree to all this. *Proposed* to proceed paragraph by paragraph. The first paragraph was read. *Moved* to agree that there shall be an Association, entered into by such as will, for the preservation of his Majesty's person, and the support of the Government. *Proposed* that an Association for the preservation of his Majesty's person and the safety of the Government do lie upon the Table to be subscribed [by [the] *any* Lords of this House] *by such Lords of this House as shall think fit.** Agreed to. The first paragraph of the Association was read, as follows :—We whose names . . .

* The Motion was thus amended, the words in italics being substituted for those in square brackets.

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. . these realms. *Proposed* to be added to these words ("according to the Act of Settlement.") *Proposed* that these words be part of the first paragraph above:—("hath a right by law to the Crown of [this realm] *these realms*, and that [no] *the late King James, nor the pretended Prince of Wales, or any* other person [whatsoever] hath any right *whatsoever* to the same.")* After debate, the *Question* was put whether there shall be any alteration to this Clause as read? The *Question* was put whether this Clause shall be in the place of the other, as above? It was *resolved* in the Affirmative; Contents 60, Not Contents 34; Tellers, E. Tankerville, L. Ferrers. Then the words, as in L.J., were agreed to. The other parts of the Association were read and agreed to, with the alteration of "the pretended Prince of Wales." The Order made on Report of the Association concludes, in MS. Min., "and the Lords to sign or refuse as they are called." MS. Min.

On 27 Feb. the House was called, and a number of lords signed the Association. Some absent lords in the country were ordered to be written to by the lord on the woolsack to attend and sign. Altogether, of the 191 members of the House, 110 signed before the end of the Session. The following 62 never attended a sitting of the House:—

D. Grafton.
„ Beaufort.
„ Berwick.
M. Powis.
E. Rutland.
„ Lincoln.
„ Salisbury.
„ Exeter.
„ Leicester.
„ Westmorland.
„ Berkshire.
„ Peterborough.
„ Clarendon.
„ Cardigan.
„ Shaftesbury.
„ Lichfield.
„ Yarmouth.
„ Berkeley.
„ Gainsborough.
„ Holderness.
„ Plymouth.
„ Derwentwater.
„ Stafford.
„ Warrington.
V. Hereford.
„ Montague.
„ Saye & Sele.
„ Townsend.
„ Weymouth.
„ Hatton.
„ Villiers.

Bp. Llandaff.
„ Carlisle.
„ Exeter.
„ Chester.
„ Worcester.
„ Bath & Wells.
„ Bristol.
L. Audley.
„ Stourton.
„ Willoughby of Parham.
„ Paget.
„ Howard of Effingham.
„ North.
„ Peter.
„ Gerard of Bromley.
„ Arundell of Wardour.
„ Teynham.
„ Poulett.
„ Maynard.
„ Mohun.
„ Carrington.
„ Widdrington.
„ Lexington.
„ Langdale.
„ Clifford of Chudleigh.
„ Carteret.
„ Stawell.
„ Dover.
„ Waldegrave.
„ Griffin.
„ Capell.

* The Motion was thus amended, the words in italics being substituted for those in square brackets.

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Of these V. Hatton, and the Bishops of Carlisle, Exeter, Chester, & Bath & Wells, were excused from attending; E. Berkeley, & the Bishops of Worcester & Bristol, are marked "sick" in MS. Min. of 27 Feb.: D. Beaufort & V. Weymouth, having been written to, declined to sign (MS. Min. 31 March); and E. Rutland, having been written to, expressed his agreement with the Association, but pleaded age and infirmity for not attending.

The following 19 attended one or more sittings of the House, but did not sign:—

M. Halifax.
„ Normanby.
E. Oxford.
„ Huntingdon.
„ Winchilsea.
„ Chesterfield.
„ Thanet.
„ Scarsdale.
„ Anglesey.
„ Craven.
E. Ailesbury.
„ Feversham.
„ Nottingham.
Bp. St. Davids.
„ Rochester.
L. Ferrers.
„ Chandos.
„ Arundell of Trerice.
„ Jeffreys.

Of these E. Chesterfield is marked in MS. Min. of 27 Feb. as having refused to sign.

On 7 March a printed paper giving an account of the Association (Annex (*a*)) was read and voted a malicious and scurrilous libel, and the Stationers' Company were ordered to endeavour to find out the author and printer (L. J., XV. 697). On 14 March the Stationers' Company say they have searched the presses in Town. There is one Bellamy can discover, if he pleases. He was seen to distribute them. The Messenger says he has a letter sent him. It was produced. (MS. Min.; No entry in L. J.)]

Annexed:—

(*a*.) 7 March. Printed Paper, headed A Summary Account of the Proceedings upon the happy Discovery of the Jacobite Conspiracy, in a second Letter to a Devonshire Gentleman, London, March 3, 1695:—

Dear Sir,—Just now is come to Hand yours of the 27th past, calling for my Answer to that of the 18th, which I hope is now with you; for I sent it by the last Post, and also a Duplicate thereof, as you desired, under cover to our Friend at Totness. However, lest those should be intercepted, I here give you a Transcript of it, with the addition of some things which since occur, omitting the Minutes which you requested me to hand to you of Gadbury's and Partridge's Predictions of this Hellish Plot, having sent you their Almanacks, and also that of Woodward's by the Exeter Carrier, which I know is a safe way.

Mine told you that on Monday the 24th, the King came to the House of Lords, and in a Speech acquainted both Houses;

"That he was come on an extraordinary occasion, which might have proved fatal if it had not been disappointed by the singular Mercy and Goodness of God.

"That he had received several concurring informations of a Design to assassinate him, and that our Enemies were very forward in their Preparations for a sudden Invasion of the Kingdom.

"That His Majesty had not been wanting to give the necessary Orders for the Fleet, and that he hoped there was a Strength

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of Ships, and in such a readiness, as would be sufficient to disappoint the Intentions of our Enemies.

"That he had despatched Orders for bringing Home such a Number of our Troops, as might secure us from any Attempt; and exhorted them to do every thing which they should judge proper for our Common Safety, &c."

Upon this astonishing News the House of Commons (*Nemine Contradicente*) resolved to address His Majesty to "congratulate "his happy Deliverance, and to give him their Thanks for "imparting the Horrid Design to the House, and to desire His "Majesty to take more than ordinary Care of his Royal Person, "assuring him that they will stand by, assist, and defend His "Majesty with their Lives and Fortunes, against the late King "James and all other His Enemies both at Home and Abroad; "and that in case His Majesty should come to any violent "Death (which God forbid) they would revenge the same upon "all his Enemies and their Adherents, &c."

The House of Lords also unanimously agreed upon an Address to His Majesty, to which they desired the Concurrence of the Commons; who made some Amendments thereunto, to which the Lords agreeing, the same Evening both Houses attended His Majesty therewith. You have here a Copy thereof.

"We your Majesty's most Loyal and Dutiful Subjects, the Lords "Spiritual and Temporal, and Commons in this present Parlia- "ment Assembled, having taken into our serious consideration, "what your Majesty hath been pleased to communicate to us this "day, think it our Duty in the first place, to give Your Majesty "most Humble Thanks, for having acquainted Your Parliament, "with the Great Danger Your Sacred Person hath been so nearly "exposed to, and the Design of an Invasion from our Enemies "Abroad; we heartily congratulate Your Majesty's Happy Pre- "servation, and thankfully acknowledge the signal Providence "of God in it; and at the same time Declare our Detestation and "Abhorrence of so Villanous and Barbarous a Design. And "since the Safety and Welfare of Your Majesty's Dominions do "so entirely depend upon Your Life, We most Humbly Beseech "Your Majesty to take more than Ordinary Care of Your Royal "Person: And we take this Occasion to Assure Your Majesty "of our utmost Assistance to Defend Your Person, and Support "Your Government against the late King James and all other "Your Enemies, both at Home and Abroad; hereby declaring "to all the World, That in case your Majesty shall come to "any Violent Death (which God forbid) we will Revenge the "same upon all your Enemies and their adherents. And as an "Instance of our Zeal for Your Majesty's Service, we will give "all possible Despatch to the Public Business: And we make it "our Desire to Your Majesty to Seize and Secure all Persons, "Horses and Arms, that Your Majesty may think fit to Appre- "hend upon this occasion."

To which his Majesty gave a gracious Answer to the effect following, viz.:—

"My Lords and Gentlemen,

"I thank you heartily for this kind Address: on my Part you "may be assured, that I will do all that is within the Power "for the Conservation of this Kingdom, to which I have so "many Obligations. I will readily adventure my Life for the "Preservation of it, and recommend myself to the Continuance "of your Loyalty and good Affections."

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The House of Commons also, the same day, resolved upon the following Association to be signed by their Members :—

"Whereas there has been a Horrid and Detestable conspiracy, "Formed and Carried on by Papists, and other Wicked and "Traiterous Persons, for Assassinating his Majesty's Royal "Person in Order to Incourage an Invasion from France, to "Subvert our Religion, Laws and Liberty : We whose Names "are hereunto Subscribed, do Heartily, Sincerely, and Solemnly "Profess, Testify, and Declare, That his present Majesty King "William is Rightful and Lawful King of these Realms. And "we do Mutually Promise and Engage to stand by and assist "each other to the utmost of our Power, in the Support and "Defence of his Majesty's most Sacred Person and Government, "against the late King James and all his Adherents. And in "case his Majesty come to any Violent or Untimely Death "(which God forbid), We do hereby further Freely and Unanimously oblige ourselves to Unite, Associate, and Stand by each "other, in Revenging the same upon his Enemies and their "Adherents ; and in Supporting and Defending the Succession "of the Crown according to an Act made in the First Year of "the Reign of King William and Queen Mary, intituled, An "Act Declaring the Rights and Liberties of the Subject and "Settling the Succession of the Crown."

There is also an Association agreed upon by the House of Lords, which was carried by a Majority, which will appear to be of a Comfortable Importance.

Their Lordships' Association differs so little from that of the Commons that I do not transcribe it ; but show you how they vary : Instead of the words [King William is Rightful and Lawful King] their Lordships insert,

"That His present Majesty King William hath A Right By Law "to the Crown of this Realm, and that neither the late King "James, nor the pretended Prince of Wales, nor any other "Person hath any Right whatsoever to the same, &c."

Ninety-six of the Lords Spiritual and Temporal have already subscribed their Association, and others, who were at first absent, come in daily ; it hath been refused only by 15, whose Names lying in a narrow compass, I here give you.

Marqnis of Halifax.

Marquis of Normauby (who when King James Abdicated we knew by the Title of Earl of Mulgrave).

Earls of { Craven. Feversham. Aylesbury.

Earls of { Nottingham. Chesterfield. Thanet. Winchilsea. Scarsdale.

Lord Jeffries. Lord Chandos. Lord Ferrers. Dr. Sprat, Bishop of Rochester. Dr. Watson, Bishop of St. Davids.

Their Lordships have also ordered Letters to be sent to these undernamed Peers, who are in the Country, to attend the House ; and their subscribing is not doubted.

The Dukes of { Beaufort, and Richmond.

Earls of { Rutland. Derby. Bristol.

Lord Viscount Weymouth.

The Lords { Fitz-Wa[l]ter. Leigh. Lempster. Ossulton. Willoughby. Coventry. Rockingham.

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The House of Commons having, as I told you, agreed upon the above-written Association, ordered it to be engrossed, to be Signed by their Members; and near 400 of that August Assembly, which consists of 513, have already (with great alacrity) subscribed it. But some at present hesitate; some others refuse it; their names are underwritten.

Berks sends 9 Members.
William Jennyngs.
Simon Harcourt.

Bucks 14.
Alexander Denton.
Montague Drake.
Sir James Etheridge.

Cornwall 44.
Henry, Lord Hyde.
John Manley.
Daniel Eliot.
Henry Fleming.
Francis Buller.
John Tredenham.
Seymour Tredenham.
Sir William Coryton.
John Mountstevens.
Bernard Grenvile.
Charles, Lord Cheney.
Francis Gwyn.

Cheshire 4.
Sir Thomas Grosvenor.

Derbyshire 4.
Sir Gilbert Clarke.

Devon 26.
Francis Courteney.
Sir Edward Seymour.
John Granville.

Dorsetshire 20.
Thomas Strangways.
Thomas Freke.
Richard Fownes.

Ebor 30.
Robert Byerly.
Sir Marmaduke Wivill.
Sir Michael Wentworth.

Essex 8.
Sir Eliab Harvey.

Glocester 8.
Robert Payne.
William Frye.
Richard How.
John How.

Herefordshire 8.
Robert Price.

Huntingdon 4.
Anthony Hammond.

Kent 18.
Sir John Banks.

Lancaster 14.
Leigh Banks.
Thomas Brotherton.
Sir Roger Bradshaw.
Peter Shakerley.

Lincolnshire 12.
George, Lord Castleton.
Sir John Bolles.

Norfolk 12.
Sir John Wodehouse.

Northampton 9.
Thomas Cartwright.
Gilbert Dolben.

Northumberland 8.
William Foster.

Oxford 9.
Montague, Lord Norris.
Sir Robert Jenkinson.
Heneage Finch.
Sir Edward Norris.
Thomas Rowney.
James Bertie.
Sir Robert Dashwood.

Salop 12.
Edward Kynaston.
John Kynaston.
Andrew Newport.
George Weld.

Somerset 18.
Sir John Trevillian.
Edward Berkley.
John Sandford.
Sir Charles Carterett.
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Southampton 26.
Henry Holmes.
Thomas Done.

Staffordshire 10.
Robert Burdett.
Sir John Leveson Gower.
John Grey.
Sir Henry Gough.

Surrey 14.
John Parsons.

Sussex 28.
Sir William Morley.
John Lewknor.
Sir Thomas Dyke.
William Stringer.

Warwickshire 6.
William Bromley.
Andrew Archer.
George Bohun.
Lord Digby.
Francis Grevill.

Westmorland 4.
Sir William Twisden.
Sir Christopher Musgrave.

Wiltshire 34.
Robert Bertie.
William Harvey.
Henry Pynnill.
Thomas Bennett.
William Daniel.

Worcestershire 9.
Samuel Swift.
Henry Parker.

Wales 24.
Edward Jones.
Jeffery Jeffries.
Sir Richard Middleton.
Edward Brereton.
Sir John Conway.
Thomas Mansel.

In all but 93 Dissenters.

Pardon me, Sir, that I forgot to insert the name of Wi: Williams, who you may remember spew'd Sir Robert Peyton out of the House of Commons, for corresponding with the late King when Duke of York, and who told King Charles II. that the Commons were not given to change, but it is now evident that some of their Quondam Speakers are.

On Tuesday, the House ordered that their absent Members, as they come to the House, do come up to the Table, and sign the Association: or, in their Places, declare their Refusal so to do; and

On Thursday it was ordered that the Association, and the Subscriptions thereunto, be entered upon the Journal of the House; and Resolved that it be presented to His Majesty by the Speaker and the whole House, before the end of the Session.

It was also, the same day, ordered that such Members who have not already, shall by Monday fortnight Sign the Association, or declare their Refusal; and, I do, on as good Ground as Gadbury foretold the Plot, predict that the Body of Refusers in this Honourable House will scarce, at the summing up, amount to the number of one hundred.

Permit me now (Dear Sir) to recreate myself a little in remarking on what I have laid before you.

As the Doubting Lords are but few, so of the twenty-six Members of your Large and Rich County of Devon, you find but three Dissenters: and but one (I include not their Bishop) of the eighteen in the Spacious County of Kent. No more than one out of twelve in another of the largest counties of England, I mean Norfolk. To augment their number, Essex (another of our greatest Counties) furnishes one out of eight. Cheshire one out of their four. Derbyshire one out of four also; and Herefordshire, such another one out of eight. The Diminutive but Opulent County of Huntingdon has lent them another out

of four; and that Honest County of Surrey one out of fourteen, but I assure you it is a very Sorry One. 1695-6.

You find not one of the Sixteen Members for the Cinque Ports in this Non-Association; and the twelve Counties of Wales have of their twenty-four Members but eight Refusers, of whom one is now His Majesty's Counsel and was of King James's Counsel against the Bishops's: Indeed they have a Recusant Bishop to head them, of King James's own making: but unless I mis-remember he was not one of the Seven Golden Candlesticks. No. 1022.

You want (Sir) in the above written List eleven of our English Counties, which are these:

Bedfordshire sends 4 Members.	London, Middlesex, and Westminster 8.
Cambridgeshire 6.	Monmouthshire 3.
Cumberland 6.	Nottinghamshire 8.
Durham 4.	Rutland 2.
Hertfordshire 6.	Suffolk 16.
Leicestershire 4.	

Of which Number, being 67, I tell you for their Honour, there is not one Recusant.

I further observe to you, that in the seven old Associated Counties, viz., Essex, Suffolk, Norfolk, Cambridge, Huntingdon, Bedford, and Hertford, there are but 3 Recusants; and you will find about 4 times that Number of Associating Lords there. In London and the contiguous Counties, viz., Middlesex, Bucks, Berks, Wiltshire, Hantshire, Surrey, Sussex, Kent, Lincoln, and Northampton, which make another 11 Counties, and send no less than 172 Members, you will find, upon review of the foregoing List, that there had been but 19 Refusers, had not Mr. Done and Mr. Parsons added two to their Number.

Now to detain you no longer in discoursing of the House of Commons, let this assure you that the City of London had like to have been as unanimous as the first 11 Counties. A Common Council was this last Week summoned, where the foregoing Association being proposed, it was agreed unto and signed by every Member present (that whole Body consisting of 234), one only excepted, whose name may not be forgot, it is Lawrence Cole, a man of little Note before he was one of honest Mr. Bateman's Jury.

I hope, Sir, this pleasant Scheme of the Kingdom and its Affairs will in some measure relieve you from the Panic fear into which you say Gadbury and Partridge had put you. Now for the Service of the Government, you have my free consent to show this to your Honest Neighbours (especially to our Friends of Exeter and Totness). Nay to any Man, for, tho' as you know I pay a Deference to Sir E. Seymour, and a far greater to the Nation's Representatives, I am confident I shall not in this Juncture incur their displeasure by naming a Squeamish Conscienced Gentleman, who (after 7 years Apprenticeship) will not go the Length to avow K. William's Right to the Crown.

When the Town is on Fire, the blowing up a House is surely justifiable. Our Neighbour Nation once upon a time told a bigger Man than Sir E. S. that a King for some crimes might forefault; and had Sir E. been thrown out of the House last Week, I should not have laid it to Heart.

I have long ago resolved to run a Muck against all the enemies of this Government, and know by Consequence that I am to expect no Quarter when it is overturned, which makes me now as fearless of being called to a Reckoning, as I am of this Plot; but should that

1695–6. betide me, I wish it may be before the present Commissioners of Accounts.

No. 1022. I have, Sir, been so proiix that I cannot now enter into the particulars of this Diabolical Conspiracy, but for your Comfort it is happily discovered, and most miraculously disappointed. Admiral Russell now blocks up the French Fleet about Calais, and I hope to tell you by the next that he has destroyed them.

The Tower of London was to have been delivered up to the French Cut-Throats, and they say by Major Hawley an Officer there; it is certain he is secured. Take Heart my Friend, for our Enemies will not easily get possession of the Powder there, and I am confident all the Salt Petre in Devonshire (should 200 Tons be discovered in any Vault there) will not supply enough to blow up this Government. For my part, come what will, I resolve never to be bribed into the Jacobite Party; no, tho' I should be tempted with the value of such a Cargo, which Sir E. S. well knows is not less worth than 12,000*l.*

You must not expect a License to this, for Sir Roger L'Estrange had last night the Mishap to be committed Close Prisoner to Newgate.

I am, Sir, Yours sincerely, B. J.

P.S.—Sir, I esteem myself obliged to beg pardon that I have here repeated the Name of Worthy Mr. Cartwright, of Northamptonshire, who yesterday, upon second Thoughts, signed the Association; and I question not but the rest will follow the good example he has set them. [Read this day, Resolved to be a malicious and scurrilous libel and a violation of the rights and privileges of Parliament, and an Order made that the Stationers' Company find out the author and printer. L.J., XV. 697.]

(*b.*) 16 March.—Letter from E. Rutland to L. C. Justice Treby, in answer to letter of 27 Feb., requiring his attendance at the House on 17 March, which his age and long infirmities will not permit him to do. Has sent two servants to attest his indisposition. He always had and will ever have the greatest duty imaginable for King William and the present Government established under him, and will be extremely satisfied if there can be any way found for him to sign the Association in the country; for he heartily joins with those noble Lords that have done it. *Signed* Rutland. *Dated* Haddon, 12 March. [Read this day. MS. Min.; No entry in L.J.]

(*c.*) 17 March.—Letter from V. Weymouth to Sir John Somers, the Lord Keeper and Speaker of the House. He has been hindered from coming up by the gout, which for many years has persecuted him the most severely in this month. Hopes this will be admitted as a reasonable excuse, as he has never failed to give constant attendance. *Dated* L. Leat, 11 March. [Read this day. L.J., XV. 708, and MS. Min.]

(*d.*) 31 March.—Another letter from same to same, in answer to one of 17 March (L.J., XV. 708, *in extenso*). Is still suffering from gout. Encloses a certificate from the Physician attending him, which he hopes will be more satisfactory than the evidence of two persons at the Bar, who cannot be supposed to speak so knowingly. As to the Association sent to him by their Lordships' directions, he has considered it, and, though it will not become him to offer arguments against what the Majority have thought fit to resolve, yet, for his own part, he must with all submission declare that he cannot subscribe it, though at the

same time he truly affirms that no man can detest and abhor what appears to have been designed more than he does. *Dated* Longleat, 26 March. [Read this day. MS. Min. ; No entry in L. J.]

(*e.*) Certificate of George Cary, Physician, that V. Weymouth has had several fits of the gout, and has been for a good while in a course of physic, which if he should interrupt, or take a journey, in all probability it will much increase his distempers and may prove fatal. *Dated* 25 March, and enclosed in preceding.

(*f.*) 31 March.—Letter from D. Beaufort to Sir John Sumers, Knt., Lord Keeper and Speaker of the House, in answer to letter of 18 March (*see* L. J., XV. 710). His indisposition prevents his attending personally ; "but, to pay all the obedience "I am capable of to their Lordships' Order, I hereby presume "to acquaint your Lordship that I cannot as yet so far overcome "some scruples that have occurred to me, in reading and con- "sidering [the Association], as to be satisfied to sign it. Not "but that I do as much abhor the horrid and detestable "conspiracy therein mentioned, and all designs of that nature, "as any man breathing can, and am as averse to an invasion or "insurrection to subvert our Religion, Laws, and Liberties as "any person that has signed it." *Signed* Beaufort. *Dated* Badminton, 25 March 1696. [Read this day. MS. Min. ; No entry in L. J.]

(*g.*) 21 April.—Letter from V. Hatton to the Lord Keeper. His long want of health has prevented his attendance this Session. Prays he may be directed how he may subscribe the Association, from which he has been hitherto prevented, not for want of good inclinations towards it, but for want of opportunity. *Signed* Hatton. *Dated* Kirby, April 17, 1696. [Read this day. MS. Min. ; No entry in L. J.]

1023. Feb. 27.—Writ of Summons (L. Willoughby de Broke).—Writ of Summons, dated 25 Feb. 1695–6, to Richard, L. Willoughby de Broke. [Sat first in Parliament this day. L. J., XV. 684.]

1024. Feb. 27. — Sir Robt. Atkyns *v.* Tooke. — Petition and Appeal of Sir Robert Atkyns, Knight of the Bath. Mrs. Elizabeth Tooke, through her Trustee, John Bennett, Esq., had a separate maintenance of 200*l.* a year during the life of her husband Thomas Tooke, and a jointure of 300*l.* a year after his death, charged on a freehold estate in nineteen houses in Castle Yard in Holborn, by a conveyance made ten years after her marriage, which Petitioner alleges to be fraudulent, as the estate cannot yield the income charged on it. Petitioner lent the husband 820*l.* on the property, though he had timely notice of the wife's claim, as her own deed of separate maintenance declared the property to be worth 360*l.*, which would have been enough to pay him his interest over and above the wife's claim. The wife, through her trustee, to try her title, distrained one of the tenants for rent already paid to Petitioner, and the tenant brought his replevin, and the fraud would have been tried at Common Law by a Jury, as would have been right, the rather because a freehold estate depended upon that issue on each side, which the Chancery ought not to determine. The wife, however, brought a Bill in Chancery, where Petitioner's Plea was overruled, and, though he acknowledged having had notice of the separate maintenance, the only equity, the Court proceeded to examine witnesses to the point of fraud, which Petitioner

1695–6. — No. 1024. refused to examine to, and granted Mrs. Tooke her separate maintenance and a perpetual injunction against proceedings at law. Appeals against the Decree, and prays reparation against the plaintiffs in Chancery and the Counsel that signed their Bill, vizt. * * * * and Robert Otterborn, for the several unjust and untrue scandals cast upon Petitioner in that Bill, with full costs for his vexation. *Signed* by Petitioner, and *countersigned* Bartho: Shore, N. Boothe.* L. J., XV. 684. [At the Hearing, on 13 March, *Sir Thomas Powys* opens the Cause for the Appellant. The case stands purely whether it ought not to be left to law. He put in his plea, and stands upon it that this ought to be tried at law; and, if this plea stands, all trials by Jury will fall, and all will be tried in Chancery. *Sir Bartholomew Shore* heard for the Appellant: This is purely to be tried at law. We insist it is a matter of freehold, and is tryable only at law. Shall his freehold be taken away by equity? We stand upon it that the Plea ought to have been allowed. They read the Plea of the L. C. Baron. *Mr. Finch* heard for Respondent. *Sir Wm. Whitelocke:* Sir Robert Atkyns pleads this Deed of Mortgage in Court. *Moved* to have the Deed read. Our Appeal, says *Sir Thomas Powys*, is only against the Plea, and not the Decree. *Asked*, when the Plea was overruled, might they not then have come hither? It could not be denied, but they might; and the overruling was three years since. *Mr. Finch* heard: Sir Robert treated this marriage. There were all these things in the Bill. Sir Robert was privy to the settlement. Sir Robert received the portion. You were privy to the 200*l.* per annum. Counsel withdrew. *Moved* to consider whether the Deed be read. The Petition, Preamble and Prayer was read. *Agreed* the Deed to be read. Counsel were called in again, and told the Deed should be read. *Sir Barth: Shore:* The Deed is not here. The Respondents offer a copy, which is read. *Sir Thomas Powys:* We say all this is tryable at law. *Sir Wm. Whitelocke:* He married the Gent. to Reynoll's son. There were several agreements and a settlement made. Sir Robert Atkyns' own Steward was made receiver of the rents. *Mr. Finch* was heard and stated all the Case as it was. *Powys* and *Shore* replied. Then *Sir Robert Atkyns* was heard for himself: I have been 7 years out of my money. Spent 300*l.* in this Case. I do not question but she should have her 200*l.* per annum separate maintenance; but she will sweep away all the nineteen houses. Counsel withdrew. The House went into debate of this business. *Proposed* to consider whether this might not have been heard at law. *Proposed* to hear the L. Keeper's reasons for keeping it in that Court. *L. Keeper* heard. The Bill sets a great many things, as you heard at the Bar. He denies he received the money. Petition dismissed with 20*l.* costs. MS. Min.; L. J., XV. 704.]

Annexed:—

(*a*) 5 March. Joint and several Answer of Elizabeth Tooke, wife of Thomas Tooke, Esq., William Bedford, Gent., and William Morgan. The consideration of Respondent Tooke's separate maintenance was her surrender of her right of dower, which was worth above 400*l.* per annum, to pay her husband's debts. The conveyance was, indeed, after marriage, because it could not be done before, by reason of her husband's infancy, the Appellant being in such haste to make up the match to serve his own and particular friend's interest. Respondent believes that, before the

* On 2 Dec. a petition of Sir Robert Atkyns, Knight of the Bath, was read, praying he may be admitted to appeal to this House without [his Appeal] being signed by two counsel, pursuant to the Rules of this House. *Ordered* by &c., That leave be given to withdraw the petition. MS. Min.

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marriage, the Appellant, to hasten it, promised her father and mother a better settlement than she now has, otherwise they would never have consented that the Appellant should have had the directing of her portion. Appellant ought not to boast of having seen the settlement before lending his money, as in other purchasers it has been thought a crime to inspect a prior conveyance of an innocent purchaser, on purpose to lend money to destroy it, and such purchasers with such notice have not gone unpunished. She hopes the Appellant will meet with the same fate, more particularly for that he was so busy in proffering Respondent in marriage in her infancy, and had the disposal of her fortune. Was no party to the matters set forth in Appellant's Plea. The conveyance was not fraudulent under the Statute of 27 Eliz. c. 4, as alleged, because it was for a valuable consideration. Respondent Bedford was appointed to receive the rents for Mrs. Tooke's Trustee, and with the assistance of the Respondent Morgan, a Constable, levied the distress on James Hooke, the present tenant of the Rose Tavern, who, at the instance of Appellant, prosecuted them for trespass, and, as they failed to get an Injunction, they chose rather to suffer Judgment than to submit to be tried in Appellant's Court. Upon a Writ of Inquiry 5*s.* damages were awarded against them by a Jury. Appellant's exceptions to the matter of scandal in the Master's reports were overruled. Appellant has in his hand 214*l.* of Respondent's rents, which he refuses to part with. The Appeal is vexatious. *Signed* by Respondents, and *countersigned* R. Otterburne. *Endorsed* as brought in this day. *See also* L. J., XV. 704.

1025. Feb. 27.—Hort *v.* Hort.—Petition and Appeal of Kingman Hort and Isaac Hort. Petitioners' grandfather, Thomas Allen, left to Petitioners and their brother and sisters one third of his lands in Wrington, Breane, Berrow, South Brent, and Burnham, in Somersetshire, and his trustees, Paul Lemon and Edmond Watts, were to account for the rents to Petitioners as they came of age. They, however, during Petitioners' infancy, permitted their father, Thomas Hort, to receive the rents, and, on Petitioners coming of age, their claims against their father were submitted to the arbitration of John Piggott, Esq., of Brockley, Somerset, in pursuance of whose award Thomas Hort put Petitioner Kingman in possession of four closes in Wrington, and Petitioner Isaac of a ground in Kingston Seymour; but he never executed conveyances, and afterwards mortgaged these lands to Thomas Knight. When sued in Chancery by Petitioners, Thomas Hort obtained a Decree on the strength of an antedated conveyance of the whole estate to trustees for payment of debts, in which his Attorney and his Clerks are the trustees, and no one debt proved, and which was sprung on Petitioners. Appeal against the Decree, and pray that Thomas Hort and Thomas Knight be ordered to answer. *Signed* by Appellants, and *countersigned* Wm. Whitelocke, J. Shaw. L. J., XV. 684. [At the Hearing, on 21 March, *Mr. Dobyns* and *Mr. Filmer* were heard for Appellants, and *Sir Thomas Powys* and *Sir Bartholomew Shore* for Respondents. *Henry Ward* gave evidence that the Deed was executed near the time it was dated. After debate, the Appeal was dismissed. MS. Min.; L. J., XV. 714.]

Annexed:—

(*a*) 12 March. Answer of Thomas Hort.—Respondent was forced to take the rents as the trustees did not act. Spent much

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more on his children than the rents amounted to, which was not 30*l.* a year apiece, and has been ruined by their extravagance. Set Isaac up in trade. The lands awarded to his sons were his own property. Never consented to the Arbitration, and his sons entered into possession by force. The Deed was not executed after the subpœna in this cause, as alleged by Appellants. The trustees therein, Thomas Edwards, Thomas Walter, Thomas Coules, and Walter Attwood, are men of good credit. His sons' prosecution of him has enraged his creditors, who now wish to sell his whole estate and leave him destitute, and he was forced to abscond for fear of arrest. *Signed* by Respondent, and *countersigned* B. Shore, John Scroope. *Endorsed* as brought in this day. *See also* L. J., XV. 714.

(*b*) 12 March. Answer of Thomas Knight, Esq.—The mortgage he holds of the lands in Wrington was for 400*l.* actually paid to Thomas Hort, and was executed before Respondent had any notice of the Award. The money has not been repaid. *Signed* by Respondent, and *countersigned* B. Shore, John Scroope. Endorsed as brought in this day. *See also* L. J., XV. 714.

1026. Feb. 28.—Sawyer's Estate Act.—Amended Draft of an Act to enable Trustees to sell a messuage, garden, and outhouse in Lincoln's Inn Fields, late of Sir Robert Sawyer, Knt., deceased, and for purchasing other lands and tenements to be settled to the same uses. The Commons' Amendments are purely formal. [Read 1ª this day. Royal Assent 10 April. L. J., XV. 686, 733. 8 Will. III. c. 54 in Long Cal.]

Annexed :—

(*a*) 5 March. Letter from the Countess of Pembroke and Lady Sawyer to the Committee, consenting that the house should be sold and the money settled according to the will of Sir R. Sawyer, which is the intent of the Bill. *Signed* M. Sawyer, M. Pembroke, and *dated* this day. [Read this day before the Select Committee. Com. Book.]

(*b*) 5 March. Lords' Amendments in Select Committee this day. The only one of importance is that the purchase money is made payable to Dame Margaret Sawyer instead of to Matthew Johnson, Esqre., of the Middle Temple, one of the trustees. Com. Book.

1027. Feb. 29.—Wagstaff's Estate Act.—Amended Draft of an Act to enable Sir Thomas Wagstaff, Knt., to raise and secure a portion for Frances his only daughter and heir apparent. The Commons' Amendments are purely formal. [Read 1ª this day. Royal Assent 10 April. L. J., XV. 687, 733. 8 Will. III. c. 61 in Long Cal.]

Annexed :—

(*a*) 5 March. Consent of Frances Lady Wagstaff. *Signed* 27 Feb., and *attested* by Edward Conduitt. [Read this day before Select Committee. Com. Book.]

(*b*) Copy of original draft of the Bill appended to the foregoing.

(*c*) 6 March. Lords' Amendments in Select Committee this day. They consist of a correction in one of the recitals of the preamble, and certain formal Amendments to the Clauses. Com. Book.

1028. Feb. 29.—Parliamentary Elections (Qualification of Members, &c.) Bill.—Petition of the Lord Mayor, Aldermen, and Commons

of the City of London, in Common Council assembled, praying to be heard by Counsel, so far as relates to the City of London, against the Clause disabling persons to serve in Parliament not having estates according to the qualifications of that Bill, which may very much limit the Elections of the City by rendering very many eminent merchants and traders of great estates, knowledge, and fitness incapable to represent the City in Parliament. *Signed* Goodfellow. [Read this day, and Counsel ordered to be heard. (L. J., XV. 687.) The Bill was brought from the Commons on 22 Feb. (*See* No. 1016). On 9 March a similar Petition from the City of Exeter was read (Annex *a*), and *Sir Thomas Powys* and *Sir Bartholomew Shore* were heard for the City of London. Then the Bill was read 2a and considered in C. W. H., L. Cornwallis in the Chair. The title and preamble read and postponed. First two clauses agreed to. Moved to reject the clause for 500*l.* per annum for Knights of Shires. After debate, Clause read again. Some words offered to be added at the end of the Clause, and read. *Holt, C. J.*, heard: I am of opinion that "Rents" includes "Annuities." After debate, the Question was put—Whether this Clause shall stand without amendment? Then a debate arose whether an amendment shall be offered. An amendment was offered. The Clause was read, and the amendment offered to be added at the end thereof ("or shall be heir apparent to any person that hath a real estate of inheritance of such value.") The Question was put Whether this amendment be part of the Clause? Resolved in the negative by 42 votes to 33, E. Feversham and E. Manchester, Tellers. Another amendment was proposed, which was to insert ("Annuity or Rentcharge.") *Holt, C. J.*, I am of opinion the word "Rents" comprehends "Rentcharges," but it does not comprehend "Annuities." *C. J. Common Pleas* and *C. Baron* of the same opinion. Agreed that the Clause stand in the Bill without any amendment. The next enacting Clause read, concerning Burgesses having 200*l.* per annum. Question put Whether this Clause shall stand in the Bill without amendment. Resolved in the affirmative. The next Clause agreed to. A Clause offered for repeating and subscribing the Test. Question put. Clause withdrawn. The next Clause agreed to. The last Clause, concerning naturalised persons, agreed to. Preamble and Title agreed to. Bill reported without Amendment, read 3a, and passed, &c. (MS. Min.) The Royal Assent was refused on 10 April. L. J., XV. 677, 699, 733.]

No. 1028.

Annexed:—

(*a*) 9 March.—Similar Petition of the Mayor, Aldermen, and Common Council of the City of Exeter and Citizens of the same. Bears 127 signatures. [Read this day, before Counsel for the City of London were called in. MS. Min.; no entry in L. J.]

1029. March 2.—Mason *v.* Berrington.—Petition and Appeal of Dodington Mason, Gent. Humfrey Berrington, being seized of the manors of Pixley and Catley and the impropriate tithes of Kinaston and a wood called Maynes Wood in Herefordshire, worth 93*l.* a year, and becoming straitened during the Civil War, and his estate being under a Sequestration for 650*l.* for his delinquency, conveyed it, in absolute purchase, to George Mason, John Wingfield, and John Alderne, Trustees for George Dodington, Petitioner's maternal grandfather, for 1,900*l.*, and also assigned to him, and to George Mason, Thomas Hobbs, and Henry Upton, his trustees, the Equity of Redemption of a mortgage to one Thomas Geers. The premises were

1695-6. — [No. 1029. settled on Petitioner's father and mother, Benjamin Mason and Sarah, Dodington's daughter, and on their issue, who were George and Benjamin Mason and Petitioner. In 1674, sixteen years after Berrington's death, his son Thomas pretended that the conveyance had been only in trust for him, and claimed to have the property reconveyed to him: and, to give colour to his claim, included the manor of Bishopstone, Herefordshire, which had been leased by Humfrey to Petitioner's father for 50*l.* a year, and had some colour of a trust. Owing to the evidence of suspected persons as to Petitioner's father having said something about a trust, Thomas Berrington obtained a verdict in a trial at law, and, though a new trial was ordered, he obtained a Decree in Chancery, before it could take place, ordering an account of the profits and the reconveyance of the estate. Petitioner's mother and elder brother were reduced to such poverty that they could not contest the Decree, and his elder brother had to try his fortune in the West Indies, where he died 8 or 9 years since without issue; and, Petitioner's mother having died last year, and his second brother long before without issue, Petitioner is now entitled to the property. Prays the Decree may be reversed, and Thomas Berrington ordered to answer. *Signed* by Petitioner and *countersigned* Wi: Williams, Wm. Dobyns. L. J., XV. 688. [On 23 Nov. 1696 *Sir Thomas Powys* for Appellant and *Sir William Rawlinson* for Respondent agreed at the Bar that the Decree should be affirmed. MS. Min.; L. J., XVI. 16.]

Annexed:—

(*a*) 7 April 1696.—Answer of Thomas Berrington, Esquire. His father was a Captain in the Royalist Army, and his estate was sequestrated when the Parliamentary Army took Hereford. Benjamin Mason pretended great friendship for Respondent's father, and got him to convey his property to Dodington, in trust to pay off debts, and then to revert to Berrington; but the trust was not expressed in the deeds, on Mason's representation that, if so expressed, it would subject the estate to the power of the Parliament. Mason afterwards clapped Respondent's father in prison, and took possession of the title deeds of the property. Appellant's mother and brother were decreed by the Court of Chancery to pay Respondent 3,400*l.*, besides reconveying the property; but they absconded. *Signed* Tho: Berington; *countersigned* William Rawlinson. *Endorsed* as brought in this day. *See also* L. J., XVI. 17.

(*b*) 9 Nov.—Petition of Appellant for a day for hearing, the previous Order for hearing having dropped with the Session. *Endorsed* as read this day. L. J., XVI. 10.

1030. March 2.—Ridout's Estate Act.—Amended Draft of an Act for the Sale of lands in Horsington in the County of Somerset, part of the Estate of Christopher Ridout, an infant, for payment of Incumbrances charged thereon, and for preserving the residue of the said Estate for the infant. The Amendments in both Houses are purely formal. [Read 1ª this day. Royal Assent 10 April. L. J., XV. 689, 733. 8 Will. III. c. 65 in Long Cal.]

1031. March 3.—Hanham's Estate Bill [H.L.]—Draft of an Act for vesting the Manor of Holme, *alias* East Holme, and other lands of Sir John Hanham, Bart., in the County of Dorset, in Trustees to be sold for discharging a Mortgage thereupon, and payment of his other debts. Identical with the first draft of the Bill for the same purpose which was passed in the following Session. [Read 1ª this day,

and committed on 4 March. L.J., XV. 690, 692. In Select Committee, on 10th March, Sir John Hanham was ordered to attend and give particulars of his estate and a schedule of his debts, and an Order of the House protecting him from arrest was made. Com. Book ; L. J., XV. 700. No further proceedings.] 1695-6. — No. 1031.

1032. March 3.—Bigg's Estate Act.—Draft of the Clause in the Act saving Lord Rockingham's claim in virtue of a Recognizance for 600*l.* [Added this day in Select Committee to the Bill for Thomas Bigg. Com. Book. L.J., XV. 690. The Bill came from the Commons on 18 Feb., and received the Royal Assent on 10 April following. L.J., XV. 673, 733. 8 Will. III. c. 66 in Long Cal.]

1033. March 5.—Great Queen Street House Act.—Amended Draft of an Act for the better improvement of a House and ground in Great Queen Street. The Amendments in both Houses are purely formal. [Read 1ª this day. Royal Assent on 10 April following. L.J., XV. 693, 733. 8 Will. III. c. 53 in Long Cal.]

1034. March 7.—Seamen's Act (7 & 8 Will. III. c. 21).—Drafts of Amendments made by the Lords to the Bill for the Increase and Encouragement of Seamen. [The Bill was brought from the Commons this day. L.J., XV. 698. It was referred to a Select Committee, who agreed to the Clauses composing the first three sections, only substituting "or other" for "and other" in § i (Folio Ed. p. 99, l. 18, in two places), adding the words "or such other office as shall be appointed by His Majesty, his heirs and successors," in § iii. line 1, and the words "or other office as aforesaid" in lines 9 and 16 of the same section. Then *the Commissioners of the Navy* were asked what numbers of seamen had come *in communibus annis* upon the King's Bounty money, and said, last year not 1500 came in for the King's Bounty. The year before about 2000 seamen came in. The next Clause (§ iv) being thought by the Committee to be of an extraordinary concern, it was ordered to be reported to the House, as most fit to be considered by the House. Com. Book ; L.J., XV. 711.—On 25th March, in C.W.H., E. Manchester in the Chair, the first three sections were agreed to with the Amendments noted above. The Commissioners of the Navy, the Secretary to the Admiralty, and some of the Trinity House were called in, and the next Clause (§ iv) was read to them. *The Commissioners* say : The difficulty of manning the Fleet is great, and we hope this will help. But there are several officers that do not go to sea. There are carpenters, joiners, clerks, chaplains, and pursers. We doubt the manner of payment will be difficult. The 40*s.* per annum will be an encouragement, it is hoped. Some questions being proposed to be asked them, they withdrew. *Proposed* to ask the Commissioners whether a general Register and provision for wives and children is not better than a Register of 30,000 men and 40*s.* apiece? *Proposed* to call them in again, and every lord to ask what question he pleases. After debate, agreed to. *Question*, This Bill is for encouragement of seamen. Here is 40*s.* for all seamen that shall register themselves. *Commissioners* called in again. This Question was asked : Whether a general Register for the provision for their wives and children will not probably be better, for the encouragement of seamen, than the Clause in the Bill for a Register of 30,000 men? *Answer*, We have considered this, and we are of opinion that 40*s.* will be the most acceptable. Seamen are for ready money. *Asked*, how many men have listed themselves on the King's bounty? We cannot tell till we pay them. We find bounty money paid to 4,000*l.* *Question*, That all these 30,000 that register themselves

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shall be in the King's service from 18 to 55. *Answer*, It is not an encouragement. *Asked*, whether they think a limited or a general Register is best, they say, a general. They take this to be a general Register. *Asked*, whether, if there were a time that seamen should be at liberty to go into other service, it would not be greater encouragement than any here offered? *Mr. Bridgeman*: I question whether it can be made practicable. They withdrew. *Proposed* the Clause to stand as it is as to the 40*s.* rather than an hospital for wives and children. Clause read. In § iv, l. 26, the words "or other office as aforesaid" were added. After debate, the Clause (§ iv) as amended was agreed to. Progress was then reported, and the Commissioners of the Navy were ordered to draw a Proviso to except from the Register Officers not properly seafaring men. (MS. Min.; L.J., XV. 717)*.—On 26 March, in C.W.H., same Chairman, § v was agreed to, as also § vi, with the addition of the words annexed in separate schedules (Fol. Ed. p. 101, lines 3 and 10; *see* Paper *a* below), of the words "attested by the oath of two credible witnesses" in line 7, and those at the end "but such person for such offence only shall not suffer as a deserter"; and a Proviso forming § vii was inserted (Paper *b* below). §§ viii and ix were agreed to, the entry of an amendment to add at the end of the latter the words "and incurring the Penalties mentioned in this Act" being cancelled. The rest of the Bill (§§ x to xv inclusive) was agreed to. The Commissioners of the Navy delivered a Clause drawn by them, pursuant to Order of yesterday, which was read, amended, and agreed to (Paper *c* below). It forms § xvi. The Bill was then reported with the above Amendments. (MS. Min.; L.J., XV. 718, 719). The Commons agreed to the Lords' Amendments (C.J., XI. 534–5, *in extenso*), and the Bill received the Royal Assent on 10 April. L.J., XV. 732.]

The Drafts are the following:—

(*a.*) 26 March. Draft, marked O, of Amendments (except the last) made in C.W.H. this day in § vi. *See* Notes above. MS. Min.

(*b.*) 26 March. Draft, marked A, of Amendment at the end of § vi, and of Proviso forming § vii added in C.W.H. this day. *See* Notes above. MS. Min.

(*c.*) 26 March. Draft Proviso drawn up by the Commissioners of the Navy, and forming, after Amendment, § xvi. It stood originally:—"Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall be construed to extend to the debarring any person from being [preferred to any office in his Majesties Royal Navy, which office shall not require to be executed by a mariner or seafaring man."] The words within square brackets were left out and the words "a chaplain" &c., as in the Act, added. *See* Notes above. [Added in C.W.H. this day. MS. Min.]

1035. March 7.—Bishop of St. David's (Lucy's Petition).—Petition of Robert Lucy, Esq. Petitioner has exhibited to his Grace the Archbishop of Canterbury many articles against Thomas (Watson) Lord Bishop of St. David's for sundry notorious crimes and misdemeanours,

* "The lords were yesterday the greatest part of the day upon the bill for registring of Seamen, and made an amendment thereto, that the 40*s.* to be paid to each Seaman so registred shall be laid out in erecting an hospitall for maintaining their wives and children." Luttrell, 26 March.

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and particularly for Simoniacal compacts and agreements; for exacting extraordinary fees, rewards, and gratuities for Procurations, Collations, Institutions, ordaining of Priests and Deacons, and for doing of other parts of his episcopal function; for not tendering the Oath of Fidelity to several Priests and Deacons who were ordained by him, and yet certifying that they had taken it; for taking away the revenue of several churches and the profits of several antient officers [*sic*] and applying them to his own private use, to the ruining of many persons, and the overthrow of the charitable constitutions of those churches; for the getting of the Charters and Evidences of the churches of St. David's and Brecon into his hands, which belong to the Chapter to keep, and refusing to re-deliver them; and for promoting ignorant and infamous men in the Church. The Bishop was summoned to answer, and Petitioner came 120 miles, from Brecon, to prove the Articles; but the Bishop insisted upon his Privilege of Peerage, declaring that he had been advised by some great Lords that he could not waive it without offending the House. Prays the House will order him to waive it, and permit Petitioner to proceed upon the Articles. [Read this day, and referred to the Committee for Privileges (L. J., XV. 698).—On 17 March, at the Committee for Privileges, E. Bridgewater in the Chair, this Petition was read. 11 Nov. 1690, Bp. Salisbury's Case, the Petition read. 9 Nov. 1680, Bp. Chichester's Case was read. 15 Dec. 1691, no Privilege for Tithes. *Bp. St. David's* was heard. 18 Edw. I. read out of Selden's Printed Book. *Moved* to report to the House what is found, the thing being of so high a nature that the Committee does not think fit to give any opinion in it, there being difficulty in the case. *Ordered* to report the Precedents, and that upon the debate they found great difficulty, and so leave it to the House (Priv. Book). The Report was made on 18 March (L. J., XV. 710, and MS. Min.) and on 20 March the House went into consideration of the Report. *Proposed* to consider whether Bp. St. David's shall be allowed Privilege in this case. The Petition read. *Moved* to consider how the Prelates' Privilege is, and whether it is on another footing than the other Peers. Whether, in any case of misdemeanour, any Lord may not [be] excluded [from] his Privilege if Bp. St. David's be not allowed Privilege. Question, Whether any Lord whatsoever, in case of an office out of the House, whereby he stops Justice, has Privilege. Proposed to hear the Judges. The Order of 18 Apr. 1626, as to Imprisonments &c., in the Roll of Standing Orders, read. Bp. St. David's declares in the House that, if the Petition against him be dismissed, he will waive his Privilege. *Ordered*, [that the Bp. of St. David's having declared he will waive his Privilege.]* That the Petition shall be and is hereby dismissed. The L. Bp. of St. David's [declaring]* declares he will waive his Privilege. MS. Min.; L. J., XV. 712.]

Annexed:—

(*a.*) 17 March.—Report from the Committee for Privileges. After giving the three precedents set out in L. J., the Report concludes "and their Lordships, finding great difficulty in this matter, leave it to the House. [Agreed to this day, and made 18 March. Priv. Book; L. J., XV. 710.]

1036. March 9.—Mortmain (Licence of Alienation) Bill.—Commons' Engrossment of an Act to enable the King, his heirs and successors, to grant licence of alienation in mortmain. Identical with

* These words are cancelled.

1695-6. — No. 1036. Charitable Gifts Act (7 & 8 Will. III. c. 37, see No. 1052), except in the following particulars :—

Engrossed Bill.	*Act of* 1696.
Clause 1.	Sect. 1.
Whereas, by several Statutes heretofore made, it is forbidden that any manor, lands, tenements, or hereditaments shall be aliened in mortmain, or to the use of any body politic or corporate, guild, fraternity or company, religious, ecclesiastical, or lay, whatsoever, and all such bodies corporate or politic, guilds, fraternities, or companies are by the said Statutes or some of them prohibited to accept, purchase, acquire, or take to themselves, or any person or persons to their use, any manor, lands, tenements, or hereditaments in mortmain, under several penalties therein contained, with which Statutes his Majesty's Royal predecessors, Kings and Queens of this realm, have in all times since the making of the said Statutes dispensed when and as often and in such cases as they, in their princely wisdom, did think fit, and such dispensations have been *de facto* allowed as good and effectual in the law; And whereas, by an Act made in the first year of the reign of his present Majesty and of the late Queen Mary of happy memory, intituled An Act declaring the rights and liberties of the Subject and settling the Succession of the Crown, amongst other things therein contained it is enacted that, from and after the then present Session of Parliament, no dispensation by *non obstante* of or to any Statute or any part thereof shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such Statute, and except in such cases as should be especially provided for by one or more Bill or Bills to be passed during the then present Session of Parliament; And whereas it is likely to be a great hindrance to learning . . .	Whereas it would be a great hindrance to learning . . .
. . . authority of the same, That from and after the thirty first day of March in the year of our Lord one thousand, six hundred, ninety and six, it shall and may be lawful . . .	. . . authority of the same, That it shall and may be lawful . . .
. . . or hereditaments whatsoever, and that such licence so granted shall be good and effectual in law, any law or Statute to the contrary notwithstanding.	. . . or hereditaments whatsoever, of whomsoever the same shall be holden.
Deest.	Sect. 2.

Parchment Collection. [Brought from the Commons this day; Read 1ª 23 March. No further proceedings. L. J., XV. 699, 714.]

1037. March 10.—Clarke *v.* Cary (In Error).—Copy of Writ of Error and Transcript of Record, brought in this day, with Tenor of Judgment given on 1 April appended (L. J., XV. 700, 724). [At the Hearing, on 1 April, *Mr. Northey* appeared for the Defendant, but no Counsel for Sir Talbot Clarke, the Plaintiff, who stated that an agreement had been proposed the day before. The Cause was an action on a bond, and Defendant had agreed that it might be brought

in again if withdrawn. Judgment affirmed. MS. Min.; L.J., XV. 724].

1038. March 10.—Swayne *v.* Middleton (In Error).—Copy of Writ of Error and Transcript of Record, brought in this day, with Tenor of Judgment given on 2 April appended (L. J., XV. 700 and 726, where "March" is put instead of "April.") [On the Hearing, on 2 April, *Sir Thos: Powys*, for the Plaintiff, said he devised payments out of his shares, and the 7th share he gave to his son Hezekiah, and to be liable to 150*l.* to put his brother apprentice. The single question is whether or no, when he has made this disposition, these words shall carry over to the survivors. There is nothing in the Bill but the plain meaning of the Testator. *Sir Bartholomew Shore*, for the same: We are in the case of a will where there needs no words. His design was the survivors should have the same thing as if there had been a settled disposition. *Mr. Northey* and *Mr. Dod* were heard for Defendant. The Action was for profits received out of a share in the New River water. The question whether the judgment shall be reversed was negatived by 14 votes to 11. L. Delawarr and L. Ferrers Tellers. MS. Min.; L.J., XV. 726.]

Annexed:—

(*a*) 16 March.—Petition of Bennet Swayne, the Plaintiff, praying that the deceased Defendant's executors may join issue. L.J., XV. 707, almost *in extenso*.

(*b*) 16 March.—Copy of Order on preceding, appended to next paper. L. J., XV. 707, *in extenso*.

(*c*) 20 March. Petition of Wm. Fawkener and John Lane, the deceased Defendant's executors, for further time to join issue, as they have not yet had a copy of the Errors assigned, or advised with Counsel. L.J., XV. 712.

(*d*) 27 March.—Petition of Plaintiff for a day for hearing. L. J., XV. 718.

1039. March 11.—King's Servant's Privilege (Thomas Davis). Petition of Thomas Davis, who is one of the Messengers to the King, and employed at present in serving Warrants against several persons for High Treason. While actually serving one of the said Warrants, he was arrested by Edward Boyce, a Bailiff, at the suit of Joseph W. Niston and John Benn his Attorney, and taken to Newgate, whence he removed himself by Habeas Corpus to the Fleet, where he now remains, for want of room in Newgate. The Lord Chamberlain issued out his warrant on Petitioner's behalf, but they brought a Habeas Corpus and have still proceeded against him. Prays he may be discharged. [Read this day, and Whiston, Benn, and Boyce ordered to attend. But on the following day the Standing Order against protecting the King's Servants was read, and the persons attending were ordered to be discharged, and nothing further done. No entry to be made of the Order yesterday. (MS. Min., March 11 & 12, where the above entries appear cancelled.)]

Annexed:—

(*a*) The Case of Thomas Davis, touching the pretended demand of Joseph Whiston. Davis joined Whiston in building two houses, which cost 100*l.*, and for his share of 50*l.* mortgaged his house to Whiston, and gave him a bond besides. Has paid the money on a fair account, but Whiston has entered upon the premises and receives the rent of 9*l.* Davis, to be at peace from suing, has offered to pay the 60*l.* still claimed by Whiston by instalments of 20*l.* a year. [Enclosed in preceding.]

1695-6. — No. 1040.

1040. March 12.—Tutbury (Needwood Forest) Act (7 & 8 Will. III. c. 40, Fol. Ed.) Petition of Rupert Browne, praying to be heard by Counsel against the Bill, which proposes to vacate certain Letters Patents under which he lent large sums, which will be lost to him if the Bill pass as it stands.* [Read this day, and Counsel ordered to be heard. L. J., XV. 702. The Bill, which is for the same purpose as two earlier ones for vacating certain Letters Patents (Nos. 240, 270, 306, 13th Report, Hist. MSS. Commission, Appendix, Part V.), was brought from the Commons on 7 March (L. J., XV. 696). On 12 March, on reading the above Petition, it was ordered that the L. Steward have notice (MS. Min.; no entry in L. J.). On 13 March a Petition of Sir Edw. Smyth against the Bill (Annex *a*) was read (L. J., XIV. 704). On 18 March *Sir Thos: Powys* was heard for Mr. Browne only. We desire there should be Commissioners appointed to value woods, and that his 3,300*l.* might be paid him out of sale of woods to be set out by the Commissioners. *Mr. Dod* (for Mr. Browne): Mr. Browne paid his money. He is out of his 7,000*l.* for three years, and he hopes to have that. The second demand is for 3,300*l.*, and he never received one penny of prineipal or interest to this time. They read the Clause in the former Bill. *Sir B. Shore* (for the Bill): Their Clause is to mark out what shall be cut for the future. This Act charges the Exchequer. *Mr. Northey* (for the Bill): The Decree is a just Decree. *Sir T. Powys:* We have in us a legal estate for the money, in Serjeant Birch. Then Bill read 2ª and committed to C.W.H. (MS. Min.). On 30 March, in C.W.H., L. Herbert of Cherbury in the Chair, the first two Clauses (§i of the Act) were agreed to. The next Proviso, concerning keepers (§ii), agreed to. The next Proviso, concerning Rupert Browne (§iii), read. *Proposed* that Rupert Browne be satisfied. *Proposed* to ask the Judges whether anything in this Bill takes away any security Mr. Browne has, or lessens his security for the 3,300*l.* *L. C. Justice*: I take it Mr. Browne had a security on this estate. If the Act does not pass, Mr. Browne reverses the Decree. He will have a legal security. It does not give him a remedy out of the estate, but out of the Exchequer. *Proposed* to draw a Clause to be added to the Bill. *Agreed* that the L. C. Justice draw a Clause upon the debate, and that Mr. Browne be not left in a worse condition, if the Bill pass, than he now is. Progress reported. (MS. Min.)—On 1 April the Clause drawn by the L. C. Justice of King's Bench was offered and read in C.W.H., and progress again reported. (MS. Min. 1 April.)—On 13 April, in C.W.H., L. Ferrers in the Chair, a Clause concerning Rupert Browne was offered and read. L. Steward's Clause. The Clause drawn by the L. C. Justice was read. After debate, *proposed* to hear Mr. Browne again. Agreed to. Mr. Browne to make it appear that this money was lent on the Grant, and how this money was lent (MS. Min.; L.J., XV. 734).—On 17 April, in C.W.H., E. Stamford in the Chair, *Sir Thomas Powys* was heard for Browne, produced the deed, and examined witnesses as to the execution of it. Browne and Col. Vernon made up their accounts, and the deed was filled up, and bonds were cancelled. Several sums were paid to Vernon by Browne. Vernon's will produced, and admitted by the King's Counsel. *Mr. Dod* heard for Browne. *Sir Barth: Shore* and *Mr. Northey* for the King. Then the Committee went into debate of the security for the 3,300*l.*

* "The lords have past the bill for revesting in the Crown the forest of Tutbury, with some amendments." Luttrell, 18 March.

1695-6. — No. 1040.

The Clause drawn by L. C. Justice read. *Agreed* that Mr. Browne's debt is well proved to the 3,300*l.* and interest. That the security Mr. Browne has in Ireland for this debt, upon his Majesty's payment of the money, be assigned to his Majesty (MS. Min. ; L.J., XV. 738).—On 18 April, in C.W.H., E. Bridgewater in the Chair, the Clause for Rupert Browne was read as drawn. *Proposed* to fill up the blank with the Commissioners' names, which were read. Clause agreed to. The last Clause in the Bill read and agreed to be left out. Bill then reported with Amendments (MS. Min. ; L.J., XV. 739). On 22nd April, on Third Reading, a Rider (§viii) was added at the end of the Bill (MS. Min.). The amendments were agreed to by the Commons, and the Bill received the Royal Assent on 27 April. L. J., XV. 746.]

Annexed :—

(*a*) 13 March. Petition of Sir Edward Smyth, Bart. Col. Vernon, who died in 1683, mortgaged to Petitioner the Castle and Site of Tutbury, worth 10*l.* a year, for a debt of 300*l.* The money was not repaid, and Petitioner recovered possession. Petitioner's interest will be concluded by the Bill, the Saving not being large enough to secure him. Prays to be heard by Counsel. [Read this day and Counsel to be heard. L.J., XV. 704.]

1041. March 13.—M. Tavistock's Estate Act.—Consent of William D. Bedford, Lady Rachel Russell, Wriothsley, M. Tavistock, Elizabeth, Marchioness of Tavistock, his wife, and Elizabeth Howland, widow of John Howland, Esq., and mother of the Marchioness, to the Bill for making a wet dock and improving the estate of the Marquess and Marchioness at Readeriffe [Rotherhithe], Surrey. *Dated* 20 Feb. *Attested* by And : Tanton, John Bennett, and J. Forbes. [Read this day before the Select Committee on the Bill. Com. Book. The Bill was brought from the Commons on 4 March. Royal Assent 10 April. L. J., XV. 693, 733. 8 Will. III. c. 51 in Long Cal.].

Annexed :—

(*a*) 13 March. Similar Consent of Susanna Letten, widow, and Elizabeth Baron, widow, sisters of John Howland, Esq., and Elianor Reynardson and Mary Reynardson, daughters and coheirs of Mary Reynardson, deceased, another sister of John Howland. *Dated* 22 Feb. *Attested* by Henry Harbe, And : Tanton, and Martha Letten. [Read this day before the Select Committee. Com. Book.]

1042. March 13.—Duchess of Buccleuch's Estate Act.—Amended Draft of an Act for empowering the Most Noble Anne, Duchess of Buccleuch and the Right Honble. James, Earl of Dalkeith (her son), of the Kingdom of Scotland, to grant leases for improving a piece of ground in the parish of St. Martin's in the Fields in the County of Middlesex. The heirs male and the heirs of the Duchess and Duke were added in Select Committee to the persons against whom grants, &c. made by the Duchess and her son were to be good. No Amendments in the Commons. [Read 1ª this day. Royal Assent 10 April. L. J., XV. 704, 733. 8 Will. III. c. 50. in Long Cal. *See also* Com. Book, 16 March.]

Annexed :—

(*a*) 16 March. Amendments made in Select Committee this day. One is described above ; the other is verbal. Com. Book.

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1043. March 13.—Ecclesiastical Courts Regulation Bill. [H.L.]—Amended* Draft of an Act for the better regulating of Proceedings in the Ecclesiastical Courts. Whereas according to the laws of this Realm the Judges of the Ecclesiastical Courts, in all causes of which they have cognizance, used to pronounce sentence of excommunication against persons that stood in contempt, either for not appearing upon due summons, or for not obeying the orders, judgments, and sentences of the said Courts, and if, after such excommunication, the parties did persist in their contempt for the space of forty days, then upon a certificate of such excommunication a writ de Excommunicato Capiendo hath always issued out against such contumacious persons. And forasmuch as the said Courts having no other coercive power are necessitated to excommunicate divers persons for contempt in divers cases which do not directly concern the Christian faith or reformation of manners. Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, that from and after *the first day of May which shall be in the year of our Lord, 1696*, no sentence of excommunication shall be given or pronounced against any person or persons for any matter or cause depending or hereafter to be commenced in any Ecclesiastical Court between party and party, or in any proceedings ex officio wherein any rights or profits are contested or pursued. But that it shall and may be lawful to and for the Ecclesiastical Judge, upon any contempt of the Court in not appearing upon due summons, or not obeying the sentence, judgment, or decree of the said ecclesiastical judge in any such cause or matter of ecclesiastical cognizance, to pronounce the person so offending contumacious, and, if such person shall continue to be contumacious for the space of *twenty* days, that then the bishop or other Ordinary shall certify such contumacy into the High Court of Chancery, together with the cause thereof, and thereupon, as well in Vacation as in Term time, a writ shall issue out of the said Court for the taking, apprehending, and imprisoning such contumacious person, which writ shall be made returnable before the King in his Bench at some common day in term time 15 days or more after the date thereof. And, if afterwards it shall or may appear to the said Court of King's Bench that the writ be not returned into the said court at the day of the return thereof, or that any other default or negligence hath been used or had in the not well serving or executing the said writ, that then the said court shall and may assess an amerciament upon the sheriff or other officer in whom the default shall appear, as is done in the like cases. And, if the sheriff shall return upon such writ that the party therein named cannot be found, that then there shall and may issue out of the said Court of King's Bench an alias, and thereupon a pluries or one or more writ or writs into any other county or counties, until the party therein named shall be taken. And that the party so taken shall and may be committed to prison and there detained until he shall be [absolved] *discharged* of the contempt, and shall give caution to the Ecclesiastical Judge by bond or otherwise according to law to obey and perform the sentence of the said Court, which said judge shall have full authority to [absolve] *discharge* such person so in contempt in the same manner as was used to absolve any person excommunicated. And, upon certificate of such [absolution] *discharge* into the High Court of Chancery, the party taken and in

* Omissions in C. W. H. are shown by square brackets, additions by italics.

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prison shall have a writ out of the said Court to the Sheriff or other officer to release and discharge him out of custody. And be it further enacted that such person who shall be so pronounced contumacious shall incur the same disabilities, as to the prosecuting of any action or otherwise, as if he had been a person excommunicated, until such time as he shall be [absolved] *discharged of such contumacy*. Provided always that in the counties of Wales, and the counties palatine of Lancaster, Chester, and Durham and Ely, and in the Cinque Ports, after a certificate of such contempts into the said Court of Chancery, the tenor of such certificate shall be sent by Mittimus to the head officers of the counties of Wales, counties palatine, and places exempt, (that is to say) to the Chancellor and Chamberlain for the counties palatine of Lancaster and Chester, and for the Cinque Ports to the Lord Warden of the same, and for Wales and Ely and county Palatine of Durham to the Chief Justice or Justices there; and thereupon every of the said justices and officers shall have power and authority to make like process to the inferior officer or officers to whom the execution of such process doth appertain, returnable before the Justices there at the next Sessions or courts. Provided always and be it enacted that the Writ de Cautione admittendâ shall be had and taken by any party so pronounced contumacious in such manner as hath been used to be in cases of excommunication. And be it further enacted by the authority aforesaid that, if any person be duly cited or summoned to appear before any ecclesiastical judge in any matter or cause as aforesaid, and shall *wilfully* make default at the day or time appointed in such summons, that then it shall and may be lawful for the ecclesiastical judge to proceed on the examination and determination of the said cause, and thereupon to give a definitive sentence therein, as if the party so cited or summoned had appeared thereunto, notwithstanding any such default. Provided, nevertheless, and be it enacted, that, in any cause or matter depending or hereafter to be brought or commenced in any Ecclesiastical Court, other than such causes or matters as are within the true intent and meaning of this Act, the Ecclesiastical Judges shall and may proceed to pronounce the sentence of excommunication as they might have done before the making of this Act, anything herein contained to the contrary hereof notwithstanding. [Read 1ª this day (L. J., XV. 704). On 19 March, in C. W. H., E. Bridgewater in the chair, and on report, the Amendments noted in the text above were made (MS. Min.; L. J., XV. 711). No further proceedings in the Commons after Commitment (C. J., XI. 533)].

1044. March 18.—Masters and Servants Bill.—Commons' Engrossment of an Act for the more easy recovery of Servants' Wages, and for determining differences between Masters and Servants.—Whereas many servants hired by the year, day-labourers, artificers, journeymen, laundresses, nurses, and several other sorts of servants, after they have honestly served their masters or mistresses, are frequently dismissed their services without receiving the wages due to them, and, when such servants complain to Justices of the Peace for relief, the Justices very often refuse to intermeddle therein by reason of some doubts that have arisen concerning the power and authority of such Justices to compel such masters or mistresses to pay the wages due to such servants, by reason the wages claimed by such servants are not such as are limited, rated, and assessed pursuant to an Act of Parliament made in the fifth year of her late Majesty Queen Elizabeth, concern-

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ing the settling the wages of servants, labourers, artificers, &c.; and the said servants, by reason of their poverty, being unable to prosecute suits at law for the recovery of their wages, are necessitated to submit to the hard usage of their said masters or mistresses, by which means they labour under great necessities, very often become vagabonds or burthensome to the parishes to which they belong; and whereas there are great complaints, not without just cause, of the miscarriages and misbehaviour of servants; For remedy whereof, be it enacted by the King's most Excellent Majesty, &c., that, from and after the first day of May, one thousand, six hundred, ninety-six, it shall and may be lawful for any such artificer, journeyman, labourer, laundress, nurse, or any other servant retained or hired by the year, quarter, month, week, day, or otherwise, who shall happen to have his or her wages, clothes, or goods detained from him or her by any master or mistress, or for any master or mistress whose servant hath misbehaved him or herself, to make complaint thereof upon oath to any one or more Justice or Justices of the Peace of the county, city, borough, town corporate, place, or liberty where such master or mistress shall reside or inhabit; and that thereupon such Justice or Justices is and are hereby authorised and required, by his or their warrant, to summon and require such master or mistress or servant to appear before him or them or some other such Justice or Justices of the Peace; and, in case the said master or mistress, not being a peer or peeress of this realm, or servant, being summoned, shall neglect or refuse to appear, the said Justice or Justices is and are hereby required and authorized by his or their warrant to cause the said master or mistress or servant to be brought before him or them, or some other such Justice or Justices of the Peace, to answer the said complaint, and, upon hearing of such master, mistress, or servant, respectively, and of the party complaining, such Justice or Justices shall upon oath examine into the said complaint and the circumstances relating thereunto, which oath such Justice or Justices are hereby authorized and required to administer, and make such order therein as shall be agreeable to justice and equity; and, if any wilful default or misbehaviour shall by such justice or justices be found, upon such examination upon oath as aforesaid, to have been in any such servant, it shall and may be lawful to and for such Justice or Justices to commit such servant to the House of Correction for any time not exceeding twenty days for every such offence or offences that shall be complained of, which said servant so committed to the House of Correction shall be there strictly kept to some work or labour, whereby he or she may maintain his or herself so long as he or she shall there remain, and shall also have such reasonable correction as the said Justice or Justices so committing him or her shall direct; And, if the said master or mistress or servant shall refuse to comply with such order and determination of such Justice or Justices, then the said Justice or Justices shall by recognizance bind the said master or mistress or servant to appear at the next General or Quarter Sessions of the Peace to be held for the county, city, town, liberty, or place where the said master or mistress doth inhabit, to answer the complaint, and, upon refusal to enter into such recognizance, shall have power to commit to prison the party so refusing until such recognizance given to appear at the next General or Quarter Sessions there to answer the said complaint, where the Justices of the Peace shall enquire into, examine, and determine the matter, and such Order and Judgment as shall be there made therein concerning the payment of the said wages, and allowing out of the said wages satisfaction for such

goods as the said servant shall have wasted or embezzled during the said service, shall be final, without appeal to any other Court, neither shall any *Certiorari* be granted or allowed concerning the same, unless the wages ordered to be paid shall exceed the sum of ten pounds; And, upon refusal to pay the wages ordered to be paid, or to perform the order made by the said Justices at the said Sessions, the said Justices shall have power to commit as aforesaid the party so refusing, until the same be paid and performed.

And be it further enacted by the authority aforesaid That, from and after the first day of May, one thousand, six hundred, ninety-six, in case any person shall be hired or retained to serve in the service of any person for less time than one year, or, being hired to serve for one year or more, shall not actually enter into and continue in such service for the space of twelve months after his or her entering into such service (unless such servant, by reason of sickness or some other accident which may happen unto such servant after his or her entering into such service, be or shall be disabled to perform the said service), or in case such person, being an unmarried woman, shall be with child at the time of her hiring, such servant or servants shall not, for or by reason of such hiring or service, gain any settlement in such parish or place where the master or mistress so hiring or retaining such servant or servants shall live or inhabit. *Parchment Collection.* [Brought from the Commons this day, read 1ª on 21 March and ordered to be read 2ª. No further proceedings. L. J., XV. 709, 713.]

1045. March 19. Stretton and Princethorpe Act.—Whereas Lady Anne Holborne granted to her attendant Mary Handy, widow, two farms in Long Itchington, Warwickshire, for 1,000 years under a peppercorn rent; and Mrs. Handy afterwards married William Herbert, Gent., who by his will bequeathed the farms, worth 40*l.* a year, towards the maintenance of a Minister for Stretton and Princethorpe, with a view to their being erected into a parish distinct from Woolston; Thomas Lord Leigh, Baron of Stoneleigh, who is entitled to the reversion of the farms after 1,000 years, consents that the reversion may be settled on the Minister by the Act of Parliament directed by Herbert's will, provided that Mr. Francis Hunt, B.A., Trin. Coll., Camb., be the first Minister. *Signed* Leigh. *Dated* 4 Feb. *Attested* by S. Wither, J. Jackman, Fisher Holyoake. [Read this day before the Select Committee on the Bill (Com. Book), which came from the Commons on 12 March, and received the Royal Assent on 10 April. L. J., XV. 703, 733. 8 Will. III. c. 63 in Long Cal.]

Annexed:—

(*a*) 19 March. Consent of Fisher Wentworth, *alias* Dilke, of Woolston, Warwickshire, Esq., undoubted patron of the parish church of Woolston, whereof the chapelry of Stretton super Dunsmore and Princethorpe is a member, to the Bill, provided the right of presentation to every third avoidance of the Church of Stretton be preserved to him and his heirs. Recital to the same effect as preceding. *Signed* Fisher Wentworth. *Dated* 4 Feb. *Attested* by S. Wither, J. Wilcox, and Fisher Holyoake. [Read this day before the Select Committee. Com. Book.]

(*b*) 19 March. Consent of Jonathan Stafford, Clerk, Incumbent and Vicar of Woolston, to the erection of the chapelry into a new parish, and that the Vicarage House and churchyard shall belong to it, together with all vicarage tithes except the tithes of wood, which he retains in consideration of his

1695-6. — No. 1045. liability to the King for the First Fruits, value 15*l.* 10*s.*, and the tenths, value 31*s.* per annum, for the whole present parish, of which Stretton ought otherwise to pay one third. *Signed* Jona: Stafford. *Dated* 4 Feb. *Attested* as preceding paper. [Read this day before the Select Committee. Com. Book.]

1046. March 21. Hawkers and Pedlars Bill—Commons' Engrossment of an Act for suppressing Hawkers and Pedlars :—

§ i. Whereas the inhabitants, traders in the cities, corporations, boroughs, and market-towns of this realm of England and dominion of Wales, are impoverished, even to the ruin of themselves and their families, by the practices of pedlars, hawkers, and other wandering trading persons, who carry about and expose to sale from house to house, public and private, and place to place, divers deceitful prohibited and uncustomed goods, wares, and merchandises of all such kinds as they, the settled traders in the said cities, corporations, boroughs, and market-towns do deal in, whereby the life and substance of trade is carried away by strangers, and true workmanship discouraged, to the eminent prejudice of the English manufactures both at home and abroad, and the general decay and fall of rents and profits in and about the said cities, corporations, boroughs, and market-towns; For remedy whereof Be it therefore enacted by the King's Most Excellent Majesty, &c. That, from and after the nine and twentieth day of September in the year of our Lord one thousand, six hundred, ninety and six,* no hawker, pedlar, petty chapman, or any other wandering trading person or persons, either on foot, horse, horses, or otherwise (except as hereinafter is excepted), shall carry about, sell, or expose to sale any goods, wares, or merchandises made of or mixed with any woollen, linen, silk, hair, cotton, metals, leather, glass, earth, wood, horn, ivory or other bone, or any like goods, wares, or merchandises as usually are sold by either drapers, mercers, haberdashers, stationers, or any other legal trading shopkeepers in any city, corporation, borough, or market-town in the kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, or in two miles distant from any or either of the liberties, precincts, or privileges thereof, in the kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed (except in open fair, mart, or markets, and according to the ancient constitution of the said fairs and markets, or in his, her, or their own shop, warehouse, or workhouse of manufacture where either he, she, or they usually be, abide, or inhabit, and not in any private house, inn, public-house, or streets, upon pain to forfeit and lose for each and every offence contrary to this Act the several and respective sums following, (that is to say) each and every petty chapman, pedlar, hawker, or other wandering trading person or persons with horse, horses, or other beast or beasts of burthen, the sum of forty shillings, and each and every foot chapman, pedlar, hawker, or other wandering trading person or persons the sum of ten shillings, whereof one moiety to the use of the King and his successors, and the other moiety to the use of such person or persons who shall seize on the said goods, wares, or merchandise so carried about and exposed to sale contrary to this Act, and shall prosecute for the same, to be recovered and levied as hereby hereafter is provided.

§ ii. And be it further enacted by the authority aforesaid That any person or persons shall and may lawfully seize and detain any such offender or offenders for such reasonable time as either he, she, or they may give regular notice to either constable, head borough, tithing-man,

* Written on erasures.

churchwarden, overseer for the poor, or some other parish officer or officers; which officer and officers, upon such notice, or otherwise upon their own view and certain knowledge, are hereby authorised and straitly required to seize the goods, wares, and merchandises &c. as aforesaid, carried about and exposed to sale contrary to this Act, and may keep and detain the same for any time not exceeding three days, within which time, or sooner if the same may be conveniently done, the person or persons so seizing shall repair to any one of his Majesty's Justices of the Peace for the county, riding, city, town corporate, or division where such seizure was made, who is and are hereby severally and respectively authorised and straitly required to hear and determine thereof, and to administer an oath to such credible witness or witnesses as shall be produced for the better discovery of the several and respective facts to him or them complained of; and, upon conviction of the offender or offenders by the oath of one or more credible witnesses, the said Justice or Justices shall, by warrant under his own hand and seal, or hands and seals, cause the said respective penalties and forfeitures to be forthwith levied by distress and sale of the offender's goods, wares, or merchandises, rendering the overplus (if any be) to the owner or owners thereof, after true deduction of the reasonable charge for taking the said distress, and out of the said sale to pay the respective penalties and forfeitures aforesaid; and the said Justice or Justices who shall act and grant his or their warrants, agreeable to the power herein to them given as aforesaid, to constables, head boroughs, tithing-men, churchwardens, overseers for the poor, or some other parish officer or officers as aforesaid, for levying of distress on the said offenders, if either hawker, pedlar, petty chapman, or other wandering trading person or persons, offender or offenders as aforesaid, shall make true duplicates of such his or their and each and every of their respective conviction or convictions, and timely return the same, under his or their and each and every of their hand and seal or hands and seals, at the next General Quarter Sessions of the Peace for the county, city, town corporate, or place, to be then and there recorded; as also such Justice of the Peace who shall refuse or wilfully neglect to do his duty according to the tenor of this Act shall forfeit and lose the sum of five pounds, one moiety thereof to the King, his heirs and successors, and the other moiety to the informer. 1695-6. — No. 1046.

§ iii. Provided always that this Act or anything herein contained shall not extend to prohibit any person or persons from selling of any Acts of Parliament, Forms of Prayer, Proclamations, Gazettes, Licensed Almanacks, or other printed papers licensed by authority, or fish and fruits or other victuals, in any open streets, city, town, or place whatsoever.

§ iv. Provided nevertheless That, if any person or persons shall think him, her, or themselves aggrieved by the determination of any Justice of Peace who shall at any time act in pursuance of the powers herein to him given by this Act, it shall and may be lawful to and for such person or persons to appeal to the next General Quarter Sessions of the Peace, to be holden for the county, riding, city, or town corporate where the said offence shall be committed, and the determination of such Quarter Sessions shall be final and conclusive to all parties, so as no person shall be capable of bringing such Appeal at such Quarter Sessions who shall not, after the determination of the Justice or Justices of the Peace as aforesaid, and before the sale of the said goods, wares, or merchandises, enter into a recognizance with one or more sufficient sureties, before the said Justice or Justices of the Peace who

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made the said determination, to answer the respective penalties hereby imposed to the King and his successors and to the seizer and prosecutor for the same respectively as aforesaid, together with full costs in case the Appeal shall be adjudged against him, her, or any or either of them so appealing by the said Court of Quarter Sessions.

§ v. And be it further enacted by the authority aforesaid That, if any person or persons be sued for putting in due execution any the powers contained in this Act, or for doing any matter or thing pursuant thereunto, such person or persons may plead the general issue and give the special matter in evidence, and, if the plaintiff be non-suited, or judgment be given against him or them upon demurrer, or a verdict pass for the defendant, such defendant shall have treble his, her, or their costs.

§ vi. And be it further enacted by the authority aforesaid That, if any constable, headborough, or other officer or officers aforesaid shall refuse or neglect, upon due notice, or on their own view, to be aiding and assisting in the execution of this Act, being thereunto required, each and every such officer or officers, being thereof convicted by the oath of one or more witness or witnesses before any Justice of the Peace for the county or place where such offence shall be committed, shall forfeit and lose for each and every such offence contrary to this Act any sum not exceeding forty shillings nor under twenty shillings, to be levied by distress and sale of the offenders' goods by warrant under the hand and seal of such Justice of the Peace who before heard the matter, the one moiety to the poor of the parish where such offence shall be committed, and the other moiety to the informer who shall prosecute for the same, rendering the overplus thereof (if any be) to the owner. This Act to continue in force for the term of three years, and from thence to the end of the next Session of Parliament.

§ vii. Provided always That nothing in this Act contained shall extend or be construed to extend to hinder any person or persons who are the real workers or makers of any goods or wares within the Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, or his, her, or their children, apprentices, or domestic servants, from carrying abroad, exposing to sale, and selling any of the said goods and wares of his, her, or their own making, in any public marts, fairs, or markets, in as full and ample manner as they or any of them have or lawfully might have done before the making of this Act, nor any such workers or makers of such goods or wares, nor any other person or persons, from selling by wholesale only to any shopkeepers who sell the same goods and wares by retail, nor to restrain any tinker, cooper, or other person usually trading in mending or repairing of kettles, tubs, or other household goods whatsoever, from going about and carrying with him or them proper materials for mending the same in any place within the same county where such tinker, cooper, or other person shall have then a legal settlement and habitation, or in any place in any other county within ten miles distance of the place where such tinker, cooper, or other person shall be then legally settled and inhabiting, this Act or any other Act or Acts heretofore made to the contrary in any wise notwithstanding.

§ viii. Provided also, and be it further enacted, That any pedlar or pedlars, or other wandering person or persons, who have been employed for and during the space of seven years last past in buying and selling any of the goods and wares usually dealt in by any of the shopkeepers aforementioned, giving security to indemnify the parish as by law required, shall have free liberty to take a house and shop or either of

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them in any market-town, village, or hamlet in the Kingdom of England or dominion of Wales (except cities, boroughs, and towns corporate), and, being therein settled as aforesaid, shall and may lawfully use and enjoy the same liberty and privilege of trade as if he or they or any of them had served apprenticeships in the said town or towns, any former law or statute to the contrary notwithstanding.

§ ix. Provided also that no pedlar, petty chapman, or hawker, who shall be punished by virtue of this Act, shall suffer or be punished for the same offence by any other Act or law whatsoever.

§ x. And whereas several subscriptions, promises, and contracts have been obtained, made and entered into, for raising moneys for the promoting or procuring an Act of Parliament to be passed to the effect and purport of this present Act for the preventing of hawkers and pedlars ; And whereas there has (*sic*) been other subscriptions for the preventing or opposing such Act to pass, Be it enacted by the authority aforesaid That all such contracts, promises, or subscriptions, and all obligations or other securities had, made, given, or entered into for the purposes aforesaid, shall be utterly void to all intents and purposes whatsoever. *Parchment Collection.* [Brought from the Commons this day ; Read 1ª, and question for 2nd reading negatived on 23 March L. J., XV. 713, 715.]

1047. March 27. Plantation Trade Act (7 & 8 Will. III. c. 22).—Petition of several Merchants and Owners of ships trading to the Plantations. The Bill, if passed, will restrain the subjects of England to trade in English shipping foreign-built directly to and from the Plantations, which will greatly tend to the prejudice of Petitioners, who are the real owners of several foreign-built ships, which by the Acts of Navigation and Frauds were not debarred trading thither, paying aliens' Customs for the goods imported in such as are not made free. The present want of ships to bring off the yearly product of the Plantations occasions high freights and few goods ; and, if such foreign-built ships should be prohibited the said trade, it would be very much to the prejudice of this kingdom, for want of the Plantation goods which already are so scarce and dear. Pray that foreign-built ships with English owners may be made free, or may trade, paying aliens' duties. *Signed* Josh : Martin, Samuel Eyre, James Clarke, John Coulcir, Jo : Woolfe. *Endorsed*, by mistake, Merchants' Petition v. Seamen's Bill. [Read this day, and referred to the same Committee to whom the Seamen's Bill was committed (L. J., XV. 719). MS. Min. of date simply say that it was referred to the same Committee as the Bill stands referred. The report from C. W. H. of the Seamen's Bill follows just afterwards, and later the House went again into Committee on the Plantation Trade Bill, when the above Petition was read. (MS. Min.). This Bill was brought from the Commons on 19 March (L. J., XV. 711). On 24 March, in C. W. H., Bp. Salisbury in the chair, Mr. Randolph,* who had been ordered the day before to attend (L. J., XV. 714), was called in, and stood at the Bar. The First enacting Clause (§ i) was read. *Mr. Randolph* heard to it. Postponed. *Agreed* that a Clause suitable to the Act 22 & 23 Car. II be prepared. The next enacting Clause, concerning Oaths (§ iii) read. Judges to attend to give account how the laws concerning the Plantations are consistent one with the other. The 3rd enacting Clause read and agreed to (§ iv). The next Clause,

* The word "Surveyor" is entered after his name in MS. Min., 23 March, and cancelled.

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1048. March 28. Coinage (Plate) Act (7 & 8 Will. III. c. 19).—Petition of several Graziers renting several farms under large rents per annum, and many others who are Traders and Dealers in cattle bought and sold in the market of West Smithfield, London, and of several Salesmen and Factors who receive and pay moneys for cattle bought and sold in the said market. West Smithfield is the only market for live cattle for London and the neighbourhood, and about 50,000*l.* is returned there weekly in that commodity. For want of lawful silver, the only coin used is the guinea at 30*s.* for about a year past, and guineas at that price are the only money in the hands of Petitioners and their Agents. In most fairs and markets in England cattle cannot be bought or sold but for guineas, there not being silver sufficient to trade with; and, what there is being very small and bad, should guineas be reduced to 22*s.* by law, it would tend to the utter ruin of Petitioners and thousands of other families, especially as this is the season for buying stock.

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Pray their ease may be taken into consideration. *Signed* with 84 signatures and marks. *Endorsed* Petition of Graziers and others *v.* lowering of guineas. [The Petition is undated, and there is no record of its having been received or read. The Bill "to encourage the bringing of Plate into the Mint, to be coined, and for the further remedying the ill state of the Coin of the Kingdom," which is evidently referred to, was brought from the Commons this day. (L. J., XV. 720).—On 30 March it was read 1ª, and a debate arose on a motion to reject it. Then *moved* to read it 2ª, and, after debate, Bill read 2ª, and committed to C. W. H., and all the Lords summoned (MS. Min.). —On 31 March, in C. W. H., L. Godolphin in the chair, the first enacting Clause (§ i) read and postponed. The rest of the Clauses, down to § xi inclusive, read and agreed to. § xii read. After debate upon this Clause, concerning guineas to be reduced to 22*s.*, the question whether to agree to it as it was resolved in the affirmative by 53 votes to 33, E. Rivers and E. Anglesey Tellers.* Then the first enacting Clause agreed to, as well as the Preamble and Title, and Bill reported without Amendment, &c. (MS. Min.; L. J., XV. 722). *See also* L. J., XV. 731–2. The Bill received the Royal Assent on 10 April (*ib.* 732).]

1049. March 28. Escapes Prevention Bill.—Commons' Engrossment of an Act for the preventing escapes, and better security and relief of creditors.

Whereas prisoners under arrest or in custody upon personal actions, and also prisoners in execution for debt, damages, and costs of suit, do frequently obtain their liberties upon securities for remaining true prisoners, or for saving sheriffs, bailiffs, or gaolers harmless against escapes, in evasion and abuse of the law and rendering the same ineffectual for the recovery of debts, Be it therefore enacted, &c. That all bonds, recognizances, statutes, judgments, mortgages, and other securities whatsoever which shall, at any time after the first day of September which shall be in the year of our Lord one thousand, six hundred, ninety and six, be made or given for any liberty, ease, or favour to any person in execution for any debt, damages, or costs, or for his her or their being a true prisoner, or for the saving any person harmless against any escape, or to any such effect or intent (except and other than securities taken for appearances according to the Statute in that case made and provided), shall be utterly void, and as well the person giving as the person accepting any such security as aforesaid shall forfeit to the person at whose suit the prisoner (obtaining his liberty by the making or giving such security as aforesaid) shall be in custody the value of the money in such security mentioned, the said forfeitures to be recovered with costs of suit in any of the Courts of Record at Westminster by action of debt, bill, plaint, or information, wherein no essoign, privilege, protection, or stay of prosecution, nor any more than one imparlance, shall be allowed to the defendant. And whereas it is the daily practice, not only of persons arrested by writs and process out of His Majesty's Courts at Westminster in the several counties of this kingdom, but also of persons arrested by process out of inferior Courts, by writs of habeas corpus, to cause their bodies so arrested and in custody to be brought into some of the Courts at Westminster, or before some of the Judges thereof at their Chambers, and turned over to the prison of the King's Bench or Fleet, by reason whereof the

* "There were 33 lords for having guineas to goe at 25*s.* and 53 lords for them at 22*s.*" Luttrell, 31 March.

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prisoners of late years are become so numerous in those prisons that rules from time to time have been made to enlarge the same, and the Keepers of the same prisons for reward from such prisoners, or by colour of pretended securities taken, have immediately let such prisoners go at large, whereas such prisoners would have been kept more safe in the inferior prisons where they lay. For remedy of which abuse Be it further enacted by the authority aforesaid That, from and after the said first day of September, no writ of habeas corpus shall be sued forth or issue out of any His Majesty's Courts at Westminster at or by the instance, suit, or procurement of any person or persons who shall be arrested and in custody by virtue of any writ, plaint, process, or proceedings to be issued out of any His Majesty's Courts at Westminster, or any inferior Court whatsoever, in any action upon the case, action of debt, detinue, covenant, account, or trespass, to remove the body or bodies of such person or persons. And if any attorney, solicitor, bailiff, or any other person, shall sue forth or cause or procure such writ of habeas corpus to be so sued as aforesaid, [he] shall forfeit for every offence the sum of one hundred pounds, to be recovered by any person or persons who shall sue for the same in manner as aforesaid. Provided, nevertheless, That, where any person shall be arrested and in custody or out upon bail by virtue of any plaint or process out of any inferior Court of Record, it shall and may be lawful to and for the defendant in such action to sue forth a writ of certiorari out of any His Majesty's Courts of King's Bench, Common Pleas, or Exchequer at Westminster, to remove such cause or causes wherewith such defendant or defendants stand charged and in custody by any such plaint or process out of any inferior Court to which any habeas corpus in such actions have hitherto by law issued out and been granted, and that the same proceedings shall be thereon in such superior Court where such certiorari is returnable in such manner as in and by a late Act of Parliament, made in the fourth and fifth years of the reign of his present Majesty and the late Queen, intituled An Act for delivering declarations to prisoners, is provided, if the defendant had been in custody by virtue of any writ or writs originally brought in any of the said Courts at Westminster, by delivering any declaration or declarations in any of the said Courts at Westminster against such prisoner at the suit of any person whatsoever as in custody of the gaoler where he is, and in all such declarations in the Court of King's Bench against any prisoner in custody in the prison of any inferior Court such prisoner shall be alleged to be in the custody of the respective gaoler where he shall happen to be, and such allegation shall be as good and effectual as if such a prisoner were alleged to be in the custody of the Marshal of the Marshalsea. But the body of such prisoner is not to be removed, and if, upon such removal of the cause out of any inferior Court, the defendant shall continue in custody by virtue of the process of such inferior Courts, or any proceedings of the said Courts at Westminster, till after judgment thereupon had against him, and if, upon such Record of the Judgment, the plaintiff therein do cause a Committitur in execution to be entered upon the roll of such judgment, and a true copy of such Committitur to be delivered to the Sheriff, gaoler, or keeper of such prison where such prisoner is at the time of the delivery thereof in actual custody, such sheriff, gaoler, or keeper of such gaol or prison shall be liable to answer for that escape of such prisoner in an action of debt, as is now usual for recovery of the debt, damages, and costs for which judgment was given. Provided that this Act shall not extend, or be construed

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to extend, to remove any cause in any case where the removal thereof is restrained by an Act of Parliament made in the one and twentieth year of the reign of King James the First, intituled An Act for avoiding vexatious delays caused by removing actions and suits out of inferior Courts; but that the same and every clause thereof shall remain and be in full force, anything in this Act to the contrary notwithstanding. And whereas, in evasion of the said Act made in the one and twentieth year of the reign of King James the First, where a defendant is arrested in an action under five pounds, it hath been a common practice for such defendants to procure other actions above five pounds to be entered and charged upon him, and under colour thereof the original action upon which he was arrested hath been removed and the proceedings of the inferior Court stayed and frustrated. For remedy whereof, and to prevent such practices for the future, Be it enacted by the authority aforesaid That no cause under five ponuds for which provision is made by the said Act to prevent the removal thereof shall be removed by any writ of certiorari though there are other causes of greater value depending in the same Court against the same defendant, but that such certiorari shall remove or stay only such causes as are above five pounds and not provided for by the said Act as aforesaid. And be it further enacted by the authority aforesaid That, when at the time of removal of any cause out of an inferior Court the defendant in such cause shall happen to be out of custody upon bail, no certiorari to be granted shall remove such cause until such defendant shall put in new bail in the Court above out of which the certiorari issued. And it shall and may be lawful, as well for all commissioners and judges of assize empowered by a late Act intituled An Act for taking special bails in the country upon actions and suits depending in the Courts of King's Bench, Common Pleas, and Exchequer at Westminster in such manner as they are thereby empowered in suits depending in the said inferior Courts, as for the Judges and Barons of the said several Courts at Westminster respectively, upon certioraries granted as aforesaid, to take new recognizances of bail in such cause from such defendant so bailed in the inferior Court as aforesaid, though the cause be not then depending in the superior Court, and such bail so taken as aforesaid shall be the same, and within all and singular the provisions and clauses of the said late Act to all intents and purposes whatsoever. Provided always that nothing in this Act shall extend or be construed to extend to take away any Habeas Corpus ad Testificandum, but that the same shall and may be granted in such manner and in such cases as by law they may now be and not otherwise. And be it further enacted by the authority aforesaid that the voluntary return of any prisoner to prison, who, being under arrest or in custody upon any personal action, or in execution for any debt, damages, or costs of suit, shall have made his escape out of prison, shall not be construed to be a retaking upon fresh suit or to be any evidence thereof, nor shall bar any action for such escape. And that, from and after the first day of September, it shall and may be lawful to and for the party at whose suit any such prisoner as aforesaid shall be in custody or in execution, his executors and administrators, to have and to maintain an action of debt or upon the case, according to the nature of his case, against the executors or administrators of him who in his life time was liable to an action for any escape, for the recovery of the damage sustained by such escape. And that every person who shall hereafter be convicted of suffering any such prisoner to escape voluntarily shall, for every such offence,

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1050. March 31. Silks (Persia and East Indies) Bill.—Commons' Engrossment of an Act for restraining the wearing of wrought Silks, Bengals, and dyed, printed, or stained Calicoes, imported into the kingdom of England, of the product and manufacture of Persia and the East Indies. Whereas great quantities of wrought Silks, Bengals, dyed, printed, or stained Calicoes, of the product and manufacture of Persia and the East Indies, have been and are frequently imported into and worn within this kingdom of England, to the great prejudice of the manufacturers thereof, and detriment and impoverishment of this kingdom; For remedy whereof be it enacted, &c. That, from and after the first day of May, one thousand six hundred and ninety-seven, all wrought silks, Bengals, dyed, [ ] *printed*,* or stained Calicoes, of the product and manufacture of Persia or East India, or any other place within the limits of the Charter to the East India Company, which shall be within or [ ] *imported** into this kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, or that are or shall be dyed, printed, or stained in this kingdom or elsewhere, shall be exported again and not worn in England.

And for the more effectual preventing the wearing of the aforesaid goods, be it further enacted by the authority aforesaid That from and after the said first day of May it shall not be lawful for any person or persons whatsoever, within the kingdom of England, dominion of Wales and town of Berwick-upon-Tweed, to barter or sell by retail any of the aforesaid goods to any person or persons for any sum or sums of money or other thing whatsoever, and that such bartering or selling by retail, from and after the said first day of May, is a public and common nuisance, and shall be so adjudged and taken to be, to all intents and purposes; and that, if any person or persons shall, from and after the said first day of May, barter or sell, or cause to be bartered or sold, any quantity, pieces, or parcels of the aforesaid goods, or of any of them, for any less sum or value than the sum or value of fifty pounds, or barter or sell any such manufactured goods, sewed or made together with any other goods or materials into any garment or thing of any other denomination as part thereof, the same shall [be] and is hereby adjudged, deemed, declared and taken to be bartering or selling of the said goods by retail, and all and every such person and persons so offending, or by any other way of bartering or selling by retail any of the said goods, shall [be] and are hereby adjudged, deemed, declared, and taken to be retailers thereof, and shall forfeit and lose the value of the said goods so bartered, retailed, or sold as aforesaid, and also shall forfeit the sum of one hundred pounds for every one offence, one moiety thereof to and for the use of the poor of the parish where the offence shall be committed, and the other moiety thereof to and for the use of such person or persons as shall sue for the same, to be recovered by action of debt, bill, plaint, or information in any of his Majesty's Courts

* These amendments are made on the Engrossment by erasures.

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of Record, wherein no essoign, protection, or wager of law shall be allowed, nor any more than one imparlance.

And be it further enacted by the authority aforesaid That if, upon any prosecution, any question or doubt shall arise whether any of the goods bartered or sold by retail as aforesaid were of the manufacture of Persia or the East Indies, the proof shall lie upon such barterer or seller by retail that such goods so bartered or sold by retail as aforesaid were not of the manufacture of Persia or the East Indies, or any other place within the limits of the Charter to the East India Company.

Provided always, and it is hereby enacted, That no person shall be prosecuted or troubled for any offence committed against this Act, unless such prosecution be commenced within three months next after the offence committed. *Parchment Collection.* [Brought from the Commons this day. (L. J., XV. 722.) On the following day it was read 1ª, and ordered to be read 2ª on 3 April. On 3 and 4 April numerous petitions against the Bill were read, and some of the Petitioners ordered to be heard. (MS. Min.) Counsel were heard on 4 April for some of the Petitioners against the Bill. *Sir Thomas Powys* (for the Linen Drapers, Calenderers, Upholsterers, and persons who have lent money on Customs). I desire to be heard as to the time, the matter, and some few things prejudicial to the Kingdom. It is brought into Parliament at a time when the woollen manufacture and wool is at the height. The weavers are as full of employment as ever known. The East India Trade is agreed on all hands to be beneficial to the nation and never in more danger of being lost than now. It cannot be denied that there ever was so much cloth exported to the Indies. We are informed there are petitions from the very workers of cloth. If we can clothe ourselves from India at a small rate and sell our wool, &c. dear, it is certainly for advantage. The Dutch make cloth and the Dutch also make clothes and send them to Holland. This Bill prohibits 60 and odd particulars from the Indies. *Sir Bartholomew Shore* (against the Bill). We think it very hard to make it a crime the wearing these things within a year. We hope this Bill will not pass at all. This Bill does not supply the use of our woollen manufacture, neither can it be a prejudice to it. Which is best, to have it here from the Dutch, &c., or to give the Indies 1/3 per ptt. for it? Bengal is the only place that takes of our woollen manufacture. *Mr. Pooley* (for the printers and stainers of calico). These are a numerous people. It is supposed if the printed calicoes are prohibited, then the woollen manufacture will be increased. To raise the price of a commodity by a home consumption is no advantage. The cheapness of the calicoes is the advantage. *Mr. Jekyll* (for the same). We never were heard in the House of Commons against this clause of printed calicoes here. This discourages an English manufacture. I hope this clause, not coming up to the purport of the Bill, will be rejected. Nothing of wool can be used in the place of these calicoes. This is as much a manufacture as any woollen. *Sir Thomas Powys.* Within four years there has been more printed calico used than in many years before. *John Andrews*, sworn. *Asked* what trade. *Answers*, I deal in India and English silks. *Asked* what quantity of silks have been sold. *Answers*, This last four years there has been more consigned than in any years before. I believe the English cannot nearly supply the nation. *Mr. Dod* (for the Bill). The Bill is for the benefit of the people of England. I appeal to the House whether the whole discourse on the other side has

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not been for the East India Company. This is the proper time for this Bill. The question is whether our wool can be worked cheaper abroad or here. They say a great deal of cloth is carried out. We say there is no advantage to England. We can out-do the Dutch and French silks. We can make them as cheap as they [can]. We have cloths enough from Scotland and England to employ these printers. This new manufacture of ours is risen from 60 lbs. a week to 1,000 lbs. in Bristol, and also in other places the like. The weight of the thing is with us. *Mr. Filmer* (for the Bill). They have sent our best wrought patterns to India to have them made there. They say the Mogul will be prejudiced by us. We shall take off his raw silk. They all point at the East India Company. That the Italian and Dutch silks will come in on us is strange. If we have raw silks we can have hands. Wherever there is work there will be hands. *Captain Sherwood, Asked* if he is concerned in the Lustring Company, says he is. *Asked* whether he does not know great quantities of patterns have not been bought up by the East India Company to send thither, says, I sold Mr. Davenant 30*l.* or 40*l.* worth of patterns when he went over. *Mr. Lomb.* I am employed by my friends and relations at Norwich. I give away my time wholly. I used the trade 20 years ago. It has increased daily as we have wanted East India goods. We are increased from 8,000*l.* or 10,000*l.* a week to 14,000*l.* or 15,000*l.* a week. We make several sorts of stuffs now in imitation of India goods. We are forced to go 40 or 50 miles for loomers, &c. We want hands to work. *Asked* whether Norwich stuffs are not more in fashion now than formerly. *Answers*, We have now lost all the outside stuffs for men. The trade is gone to other places. We have lost the whole trade. We have a great many stuffs we print for common uses—about 9*d.* or 10*d.* upward. *Mr. Cary.* I have endeavoured to inform myself how the manufacture is increased since the Revolution. We are increased to a great degree in the woollen manufacture. I speak only for Bristol. It is increased 20 times as much. *William Smith.* I have lived some time in Spitalfields. I observe when the East India ships come in, half our weavers play. For two or three years we have increased and employed French refugees, and we can employ more if further encouraged. In two or three years it has increased very considerably. We employ 1,000 master weavers. We employ, we suppose, 1,000 weavers. Every loom employs three or four persons and so we must employ 50,000 persons, 3,000 looms employed. If they work up 8 ptt. a week they work up.—*Mr. Medcalfe*, I am a factor for Canterbury trade. We increase. The East India Company's goods are prejudicial to us. We have destroyed all the foreign manufactures, and made as well as abroad. (MS. Min.) Then the Bill was read 2ª, and committed to C. W. H., with an Order to hear any petitioner who had not been heard or who should petition to be heard (L. J., XV. 727 ; MS. Min.). On 7 April a petition of merchants of London trading to foreign parts (No. 1051 (*n*)), was referred to C. W. H., and the House went into Committee (E. Manchester in the Chair). *A gentleman* (in margin, Mr. Phipps) speaks for the clothiers. If the new drapery can tell us of thousands we can speak of — that so many of the East India Company's commodities may be allowed as cloth is exported for them—the French have applied themselves to destroy our East India trade. Trade is the interest of England, and the East India trade particularly. *Sir Thomas Powys* (for merchants, upholsterers, silk dyers, calico dyers, and apprentices to linendrapers). I apply myself to clause of time for bartering or selling by retail. This

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clause will endanger foreign exportation. The next clause is that from 1st May 1697, &c. If upholsterers have beds made and do not sell hem by that time, they must be exported. Next clause,—that persons must prove what country the commodities are of. *Mr. Dyer* (for the same). As to the time, if the Bill passes with this time, it will ruin many of my clients. They have stocks and cannot consume them in so short a time. The silk dyers are all undone, and must go into another country to live. The retailers cannot do what this Act equires of them. The apprentices have given great sums of money to learn their trade. If this Act passes the trade will be little worth. There are many dyers who depend upon dyeing East India silks. *John Mennel*, linendraper, *Asked* what he has sold, *Answers*, I have often sold to merchants for the Plantations small parcels. The persons that trade to those parts cannot buy great parcels. The whole business of calico printers lies upon the East India trade. *Asked*, whether weavers have not as full an employ as ever, *Answers*, Yes, they have. The linendrapers have sold East India goods this 15 years. There has been more printed calicoes sold within this 5 years than in 10 before, and the woollen manufacture has risen, as is evident. The linendrapers buy 500 lbs. and they sell to merchants for exportation. *William Arnold*. The merchants buy all the improved manufactured goods from the East Indies. I have 10,000 lbs. The merchants come as naturally to us and we to the East India Company. A merchant will come to us with his cargo to the East Indies of 500 and most under 50—10, 15 or the like. I have known the trade 18 or 20 years. I never knew such a consumption of East India goods as of late. I have printers employ 200 or 300 persons a man. If there comes 10,000 pieces of calico white, 9,500 are stained or printed here. That which cost 7 shillings in India, manufactured here is worth 40*s.* or 50*s.* If calicoes be prohibited, will not Scotch cloth rise? I have given orders to buy cloth in Scotland. *James Crane*, a slop-seller. I sell seamen's(?) shirts and children's frocks, &c. The improvements here after they come over. Nothing but linen can be made into shirts or frocks. When the English printing came to be made use of, vast quantities of calicoes which lay on the Company's hands—Calicoes are cheaper than other linen. *Joseph Nunn:* The whole livelihood of the dyers depends on this. We must leave our country and live on meaner callings. The silks come from India white and we dye them. The silk weavers have full trade and they say they want hands. Never were so many Indian silks used as now. I know there are great quantities of Indian silks in town. Nobody employs us to dye English silks. *Mr. Rudyier.* The weavers are full of employment as ever. The Committee was then adjourned to the 9th April. On 8 April Counsel were heard and witnesses examined at the Bar on behalf of the Petitioners. *Sir Thomas Powys* acquainted the House whom he represented on the previous day. *Mr. Parmenter.* I have seen such stuffs made in Holland that were so like East India that none can know the difference. I deal in Indian goods. *Sir Bartholomew Shore* (for the embroiderers and drawers). We say these trades employ thousands of families. *Mr. Rudyier* heard as to the making of silks. The generality of the trade is in a commodity between 2*s.* and 12*s.* English silks may be embroidered. We have English silks of 2*s.* which we embroider. 2,000 persons at least employed in this embroidery work—in painting and staining—of fanmakers I cannot give—*Elizabeth Hughes* says she employs above 100 at a time—women and children most—

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distressed women. I have had children of six years old employed. I have twelve I brought up. There are four other undertakers. When I have done one yard of English I have done a thousand of Indian. The fancy does not take for stuffs. *William Sherwin* (as to calico printers). My next neighbour and myself employ about 400. We can print woollen, but it will not hold washing. The drapers cannot know one from the other. *Mr. Northey* (for the calico dyers who dye calico of single colours). They are not useful in white, but must be dyed. I hope these dyers will be considered. *Thomas Symons.* I have dealt with the calico dyers between thirty and forty years. They used, when calicoes were plenty, very much of our logwood and indigo. *Thomas Kettle* (a dyer). Men of our trade so many (?) if the calico is prohibited we must starve—thousands are employed dyeing and calendering. Two or three hundred employed in dyeing and stiffening, thirty journeymen. *Mr. Browne* (a calenderer). I have earned between 3 and 4 hundred a year. I employ ten or eleven. There are about 70 masters besides servants. I can calender all sorts of stuffs. Calicoes are cheaper and of a larger breadth, and we have lesser profit in doing it. *Mr. Dobyns* (for the East India Company). The Bill will destroy the English trade. The advantages of the trade are very great. Of all the goods imported (suppose 10,000) there is 9,500 manufactured here. The reasons of the Bill are slight. There is little wool used in Anterines. We improve the woollen trade. We export it to Surat, Bengal, and China. As for employing of many hands, we employ more in manufacturing. This [would] put the trade in the Scotch and Dutch and put us also into their hands. As to the time, it is a very short time as to us. We have ships freighted for these goods and coming home, and others going out for these goods. This is an effort to ruin the Company as to the 15 and 8 ships. We export silver, but it is foreign silver. *Capt. Darrell.* I made an increase of the cloth, and they liked it in India. I carried about two hundred bales. I carried this before the regulation of Company. I question whether we can have Peter. *Mr. Thompson.* When I was in Spain a great many calicoes came thither, and bullion came back for them—two thousand pieces in a year to Bilboa factory in one ship. More ships go. They are of general use in Spain. *Capt. Darrell.* I know not of Peter, but in the bay of Bengal we had about four score thousand of bullion. I have carried calicoes to Spain and brought bullion for it. *John Elwick* says, if calico be prohibited the Scotch must have the trade. A merchant has sold 200,000 or 300,000 lbs. in a year. We must pay a million and a half more. *Mr. Arnoll.* German and Scotch linen must supply the cloth. It is the linen that fetches in the gold and not the silks. *Mr. Glover.* Pepper is most exported. Indian silks there is few transported. On 9th April it was *moved* and carried on a division by 35 to 32 that the Counsel be called in; proxies content 4, not-content 2. Tellers, L. Ferrers and L. Cornwallis. *Mr. Dod* heard (for the Bill). *Mr. Phipps* (also for the Bill). All those employed by us must be turned on the parish if the trade goes not on. *Mr. Filmer* heard (for the Norwich weavers). *Mr. Blackborne.* I have dealt in the woollen commodity, and the increase of the East India Company decay the woollen trade. Before these things came up I have paid 600*l.* per annum, and now I pay none. I have been for myself thirty-seven years. I have sold silk for 16 and 18 for which we pay 38; about 14 or 15 years they have brought in great quantities. The dyers and calenderers would earn more than they did. *Asked* whether

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wool was so dear 17 years since as now. *Answers*, Wool, I think, has been worth 30 or 31. *Roger Liddington.* I speak to the Norwich business. I have found from the time of glut of East India goods the poor in Norwich were much increased—14 or 15 years since it has increased. The yarn sold for 14*s.* per gross is now sold for 28*s.* *Samuel Tebbat.* We sent by Charles Price patterns of silk and they were brought over the same sorts next year. Charles Price was an interloper. *Capt. Sherwood* shows a pattern he sold Mr. Davenant, who went to the East Indies, and here is what was made in imitation of that. *Joseph Andrew.* When I was apprentice one came for patterns to send to the East Indies. *William Picard.* I am a silk dyer. None can exceed us. If this Bill does not pass it will be of great prejudice to us. The silk brought from India will be great prejudice to us. I think we are about 70 silk dyers. The dyers here before pretend to be wrought silk dyers. I know the vice of them. *Francis Barry.* About 28 years since the East India Company set up for the universal trade. I was bred a silkman. I was treated with all to go to the Indies. It is best for England to have cloth dear—best to transport when cheap. I continued my trade at Southampton about 12 years. *Edward Peck.* The passing this Bill is very advantageous to the silk dyers. *Samuel Hanock* shews a frock. *Mr. West.* I have seen embroidery on English silks and we can embroider better on English than other. (MS. Min.; L. J., XV. 731.) On 17 April Counsel for the Petitioners were heard, and, a proposal to make a report at once having been negatived, it was ordered to be made on the 20th. (MS. Min.; L. J., XV. 738.) Accordingly a report was made on April 20, and a debate took place on the regulations of an East India Company, and whether the House should go into Committee. The House then went into Committee again, and the Bill was further amended by (1) prolonging the time for three years, (2) allowing printed, stained, and dyed calicoes from India to be imported without any obligation to transport them, and (3) omitting Bengals altogether. (MS. Min.; L. J., XV. 740.) No further proceedings.]

1051. March 31. Silks (Persia and East Indies) Bill.—Petitions to be heard on the Bill (No. 1050). They are as follows :—

(*a*) 1 April. Petition of the Linen Drapers, praying to be heard by Counsel before the Second Reading of the Bill, which highly concerns the public trade of this nation as well as the Petitioners in particular. 121 Signatures. Numbered 1. [Read this day, and Petitioners, as well as any other persons concerned, ordered to be heard. L. J., XV. 723.]

(*b*) 3 April. Petition of the Calico Printers, on behalf of themselves and a great number of people employed in that trade, praying to be heard by Counsel in relation to a Clause in the Bill in these words "or that are or shall be printed in this kingdom or elsewhere,"* which not only tends to the ruin of Petitioners, but also to the utter destruction of a trade which by reason of its usefulness and cheapness is very beneficial to the public. 50 Signatures. [Read this day and rejected. MS. Min.; No entry in L. J.]

(*c*) 3 April. Petition of several Dyers of Wrought Silks, in behalf of themselves and many others of the same trade. The

* These words were struck out in C. W. H.

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Bill will ruin Petitioners and their families, and will force them to that which, to a freeborn subject of England, looks as the last and most dreadful of all calamities, to quit their native country and transport themselves to some foreign one where encouragement is given to that trade which they have been brought up to. Pray their Lordships not to suffer them, who now live comfortably, to be reduced to so deplorable a condition. 141 Signatures. [Offered this day and laid on the Table. MS. Min. ; No entry in L. J.]

(*d*) 4 April. Petition of several Gentlemen's sons, being Apprentices to Linen Drapers, whose friends have given considerable sums to their Masters to instruct them in the trade, the greates part of which will be lost if the Bill prohibiting the trade pass Pray their Honours to take their case into their serious consideration. 281 Signatures. *Numbered* 2. [Read this day. MS. Min. ; No entry in L. J.]

(*e*) 4 April. Petition of the Governor and Company of the Merchants of London trading into the East Indies, praying to be heard by Counsel before the passing of the Bill, which is very prejudicial to the interest of the trade of this kingdom in general, and particularly to the East India trade. *Signed* Ro: Blackborne, Secy. *Numbered* 3. [Read this day. MS Min. ; No entry in L. J.]

(*f*) 4 April. Petition of divers persons, in behalf of themselves and others, who have lent moneys on the Customs arising from Wines, Vinegar, Tobacco, and East India Goods. Petitioners have Tallies for moneys lent, on the public faith of the kingdom, to serve His Majesty and the nation's occasions, upon the security of the whole Customs. The Bill will cause the Customs of the goods prohibited, which is between 20 and 30 per cent. of their whole value, to abate, which will much lessen Petitioners' security. Pray to be heard by Counsel against the passing of the Bill. 19 Signatures. *Numbered* 4. [Read this day. MS. Min. ; No entry in L. J.]

(*g*) 4 April. Petition of several Upholsters, on behalf of themselves and many other. Similar to (*a*) above. 83 Signatures. *Numbered* 5. [Read this day. MS. Min. ; No entry in L. J.]

(*h*) 4 April. Petition of several Packers and Clothworkers, in behalf of themselves and the Clothiers of Gloucestershire, Wiltshire, and Worcestershire. Petitioners have of late years provided for the East India trade very great quantities of Woollen Manufactures, with which are purchased several sorts of East India goods, by prohibiting which the Bill will lessen the exportation of English manufactures to India, whereby Petitioners will be very great sufferers. Pray for relief. 47 Signatures. *Numbered* 6. [Read this day. MS. Min. ; No entry in L. J.]

(*i*) 4 April. Petition of the Calico and Linen Dyers, on behalf of themselves and all the Calico Dyers in England. There is a Clause added to the Bill, in these words : "or that are or shall be dyed in this kingdom or elsewhere."* It will ruin

* These words were struck out in Committee.

Petitioners and their families and apprentices. Pray the restriction may extend only to dyed calicoes imported. 141 signatures. *Numbered* 7. [Read this day. MS. Min.; No entry in L. J.]

(*k*) 4 April. Petition of the Callenders in and about the City of London against the passing of the Bill, which will tend to their ruin, and that of many who have served apprenticeships to their trade. 46 Signatures. *Numbered* 8. [Read this day. MS. Min.; No entry in L. J.]

(*l*) 4 April. Petition of the Glazers and Buckram Stiffeners in and about the City of London, on behalf of themselves and a great number of people employed in the said trade. Similar to (*i*) above, praying the restriction may extend only to dyed and printed calicoes imported. 18 Signatures. *Numbered* 9. [Read this day. MS. Min.; No entry in L. J.]

(*m*) 4 April. Petition of divers Shopkeepers and Warehousekeepers trading in East India, Persia, and China Silks, Bengals and Painted (*sic*) Calicoes, in and about the City of London, praying to be heard by Counsel before the passing of the Bill which will utterly deprive them of the greatest part of their livelihood. 46 Signatures. *Numbered* 10. [Read this day. MS. Min.; No entry in L. J.]

(*n*) 7 April. Petition of several Merchants of London trading into foreign parts. Petitioners trade into the Plantations in the West Indies and other parts beyond the seas, and have frequent occasion to buy parcels of Persians and other East India Silks and Calicoes. Pray to be heard on the Clause in the Bill which prohibits the sale of the said goods in quantities of less than 50*l.*, as they have often to buy them in smaller quantities. 17 Signatures. [Read this day, and ordered to be reserved to the consideration of the Bill in C. W. H. MS. Min.; No entry in L. J.]

1052. April 6. Charitable Gifts Act (7 & 8 Will. III. c. 37).—Amended Draft of an Act for the Encouragement of Charitable Gifts and Dispositions. The title as originally written in the draft, was "A Bill to enable the King his heirs and successors to license alienations in mortmain." (*See* No. **1036**). The Amendment in Lords' Committee (Com. Book, 9 April) is purely verbal; no Amendment in the Commons. [Read 1ª this day. Royal Assent 27 April. L. J., XV. 728, 746.]

1053. April 8. Security of the King's Person Act (7 & 8 Will. III. c. 27).—Drafts of Clauses added to the Bill for the better Security of His Majesty's Royal Person and Government. [Bill brought from the Commons this day (L. J., XV. 730). On 13 April, the Order being read for C. W. H. on the Bill, several Lords were heard. Then the House went into Committee, L. Herbert of Cherbury in the Chair. The Bill was read through. Title agreed to. Preamble postponed. First enacting Clause (Fol. Ed. § i) read. *Proposed* to hear the penalties upon Popish Recusants conviet. *L. C. Justice:* There are several penalties, 20*l.* per month, a third part of his estate at the King's disposal, and excommunication. *Proposed* that in this Clause it be altered in three particulars, (1) not to be in the wife's power to ruin the husband, (2) Summons to be left at a certain place, and (3) the same method to conviet non-jurors as is for convicting Papists.

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(*a*) 13 April. Copy of proviso about the Quakers (§ xi) with the words "and shall also own King William to be rightful and lawful King of these Realms," proposed to be added to it, written on the margin. [The words were added this day, MS. Min. *See* Notes above.]

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(*b*) 13 April. Amended Draft of a Clause, concerning Offices of Inheritance, added to the Bill this day, after the addition to it of the words "in fee simple or in fee tail." [It forms the last part of § xxi of the Act. MS. Min. *See* Notes above.]

1054. April 18. Wool Act (7 & 8 Will. III. c. 28).—Draft Clause, providing for cruisers from the North Foreland to the Isle of Wight, added this day, in C. W. H., to the Bill for the more effectual preventing the exportation of wool, and for encouraging the importation thereof from Ireland. It forms § xii of the Act. [The Bill was brought from the Commons on 27 March. L. J., XV. 719. On 18 April a Petition from Exeter was referred to C. W. H. (Annex *a*), and in C. W. H., E. Bridgewater in the Chair, the Title and Preamble agreed to. Clause 1 agreed to (§ i), after reading the Clause in the Act 4 Will. & Mary, c. 24, concerning Exeter. The rest of the Clauses to the end of the Bill (§§ ii to xi inclusive) agreed to, with the addition of the words "and no longer" at the end of the Bill.* *Mr. Randolph* called in and heard as to wool from New England: They have much wool there. The above Proviso offered and read, and, on question, added to the Bill. MS. Min. The Commons agreed to these Amendments (C. J., XI. 561), and the Bill received the Royal Assent on 27 April. L. J., XV. 746.]

(*a*) 18 April. Petition of the Merchants, Clothiers, Fullers, Tallow Chandlers, and others concerned in the Woollen Manufacture in the City and County of Exon. Exeter, being anciently a free port, imported from Ireland more than 40,000*l.* worth of wool, &c. yearly, most of which was wrought up in that city. But the Act of 4 W. & M. c. 24, by prohibiting the importation of Irish wool to Exeter, and thus driving it into the northern ports, has raised the price in Exeter more than 20 per cent, and curtailed the supply. Pray they may have the same freedom of trade with Ireland as before that Act. 117 signatures. [Read this day, and referred to C. W. H. on the Wool Bill.† MS. Min.; No entry in L. J. *See* Notes above.]

1055. April 22. Papists (Disinheriting Protestants, &c.) Bill.—Commons' Engrossment of an Act for preventing Papists from disinheriting their Protestant heirs. Whereas it is found by experience that, for the promoting and carrying on of the Popish interest in this kingdom, Papists and persons in the communion of the Church of Rome do often disinherit their next heirs who are Protestants, and deprive such persons as have the next remainder or reversion upon their estates-tail, who are Protestants, by making conveyances and settlements of their lands and hereditaments, and thereby limiting the same or the remainder or reversions thereof to some persons in remote degree or others who are Papists, and sometimes to the use and benefit of Jesuits and priests, which thing tends not only to the great detriment of divers of his Majesty's Protestant subjects, but the strengthening the Popish faction in this Kingdom; Be it therefore enacted by the King's Most Excellent Majesty, &c. That no voluntary conveyance or settlement made since the four and twentieth day of June in the year of our Lord one thousand, six hundred, eighty and eight, or which hereafter shall be made, of any

* These words do not appear in the Folio Ed., though they are written in upon the roll.

† A cancelled entry on the same day says that a Petition of the Company of Coachmakers and Coach-Harness makers, praying to be heard before the second reading of the Bill, was read and ordered to be heard on Tuesday.

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lands, tenements, or hereditaments by any person who was or shall be, at the time of the making such settlement or conveyanee, a Papist in the communion of the Church of Rome, although not at that time convicted of the same, shall be effeetual or of force in law to bar or deprive any person who is a Protestant and might claim the same or any part thereof, in case no such settlement or conveyance had been made, as heir at law or by virtue of any remainder or reversion immediately expectant upon any estate-tail of such Papist, nor shall hinder any descent or entry to any Protestant heir of such Papist, or any entry or action of sueh person in remainder or reversion, or his, her or their heirs, but as to such Protestant heir or person in remainder or reversion, his, her or their heirs, such conveyance or settlement shall be and is hereby declared to be absolutely void ; and also that all conveyanees and settlements of any lands, tenements, or hereditaments made since the said four and twentieth day of June, or which hereafter shall be made, by any Papist, and for any real and valuable consideration, shall against such Protestant heir at law, person in remainder or reversion, his, her or their heirs, be esteemed and taken as mortgages only, and shall by sueh Protestant heir within five years next after his or her ancestor's decease, or by such Protestant in reversion or remainder, his, her, or their heirs, within five years next after his, her, or their reversion or remainder should have taken effect in case no such conveyanee or settlement by sueh Papist had been made, be redeemable as mortgages on payment of the consideration money really and bonâ fide paid, together with interest and the charges of the party or parties to whom such conveyances have been or shall be made, although such conveyance be made in absolute terms and do not eontain any proviso, agreement, or condition to defeat or determine the estates thereby and therein granted.

And, forasmuch as the sending children to be edueated beyond the seas in the Popish religion is not sufficiently prevented by the laws heretofore made and provided, for the better remedy thereof be it enaeted That the next Protestant of his or her kin, who shall, according to the Statutes made in that behalf, enter upon the lands, tenements, or hereditaments of sueh child or ehildren as are sent or gone, or shall be sent or gone, beyond the seas, to be bred or live in the Popish religion, shall take the rents, issues, and profits of the same, to his or her own use or behoof, until such child or children shall return and eonform him, her, or themselves to the Church of England, and take the oaths by law required, without any aeeount to be rendered for the said rents, issues, and profits unto such child or ehildren.

Provided always, and be it further enacted, That any person claiming, obtaining, or reeovering any lands or tenements by virtue of this Act, who shall afterwards turn Papist, or be or live in the communion of the Church of Rome, and being thereof lawfully convict, shall thereby forfeit all his estate in the same, and it shall and may be lawful for the next Protestant heir, person in remainder or reversion, to and of the estate of such person so turning Papist, or being or living in the communion of the Church of Rome, to enter, sue for, and recover the said ands, tenements or hereditaments, to his, her or their use, as if such person turning Papist or living in the communion of the Church of Rome were naturally dead without other issue than such heir, person in remainder or reversion, any former law or statute to the contrary notwithstanding.

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And whereas of late years many Papists and others, casting off all sense of their duty and allegiance to his Majesty and all natural love to their native country, have withdrawn themselves out of this kingdom and resided in the dominions of his Majesty's enemies, some of whom have estates for life or estates in tail or in fee simple in lands, tenements, rents, or hereditaments within this kingdom or the dominion of Wales, the profits of which they enjoy and spend out of the kingdom, and therewith enrich and assist his Majesty's enemies, and may apply the same to the disturbance of his Majesty's Government and the public peace of the realm; and, when any of the said persons have died or shall happen to die, those who have estates in remainder or reversion immediately dependent on their estate for life or in tail, and the heirs of those who are seized in tail or in fee simple, are or may be kept out of possession of their respective rights and estates, because they cannot prove the death of such tenant for life or such tenant in tail without issue or such tenant in fee simple; Be it therefore enacted and declared that a certain Act made in the nineteenth year of the reign of the late King Charles the Second, intituled An Act for the redress of inconveniences by want of proof of the decease of persons beyond the seas or absenting themselves, upon whose lives estates do depend, and the benefits, provisions and advantages thereof, and every article and clause in the said Act, shall extend to and from henceforth be construed to extend to persons having estates in remainder immediately dependent on estates for life or on estates tail or in reversion on estates tail, and to persons that are heirs in tail or heirs in fee simple, as fully and as largely as if such persons had been named and their cases provided for in this Act.

And be it further enacted, by the authority aforesaid, That all manors, lands, tenements, rents, tithes and other hereditaments, and all and singular sums of money, goods, chattels, profits, commodities and emoluments, which, by virtue of any manner of conveyance, assurance, gift, devise, will, or otherwise, have been or hereafter shall be given, assigned, limited, or appointed for or towards the maintaining or support of any Popish priest or priests, or to or for the education or maintenance of any child or children in the Popish religion or communion of the Church of Rome in any Popish seminary, or to or for the celebration or founding of any Popish superstitions or any part thereof, or to or for any superstitious use whatsoever, shall, immediately from and after the execution of such conveyance, assurance, or gift, or the death of any person or persons making such devise, be and are hereby declared and adjudged to be from thenceforth vested in his Majesty, his heirs and successors, and shall from thenceforth be and are hereby adjudged to be in the actual seisin and possession of his Majesty, his heirs and successors, without office or inquisition thereof to be found or had, any law or statute to the contrary in any wise notwithstanding.

Provided always, and be it enacted by the authority aforesaid, That the King's Majesty, his heirs or successors, shall not by virtue of this Act implead, sue, or call to account any person or persons, being Protestants, who hath or have enjoyed or been in possession of any estate conveyed, settled, or devised to any Popish or superstitious use, for such rents or profits of the said estate that such person or persons hath or have enjoyed or received, or shall enjoy or receive to his or their proper use and benefit at any time before the first day of October one thousand, six hundred, ninety six, anything herein contained to the contrary notwithstanding. *Parchment Collection.* [Brought from the Commons this day, and read 1ª. L. J., XV. 741. On 23 April a Petition of Mrs.

1696. — No. 1055. Arabella Thompson, praying to be heard before the Bill passed, was read. The Bill was then read 2ª and committed to C. W. H., and Mrs. Thompson to be heard by her Counsel on Monday, on which day the Prorogation took place. MS. Min.; L. J., XV. 742.]

1056. April 23. Spirit Duties Act (7 & 8 Will. III. c. 30).—Petition of the Company of Distillers of London, praying to be heard by Counsel on several Clauses of the Bill, which imposes a duty of 2*d.* per gallon on Low Wines, a commodity not drinkable, nor worth above 5*d.* per gallon to be sold. Several Clauses tend to ruin the Distillers of England and to drive the trade into foreign parts, to the hindrance of the consumption of corn and fruit of the growth of this kingdom. *Signed* by Robert Taylor, Master, John Russon and Tho: Rawlinson, Wardens, and 12 others. [There is no record of this Petition, but the Bill to which it refers was brought from the Commons this day, reported from C. W. H. without Amendment on 24 April, and received the Royal Assent on 27 April. L. J., XV. 743, 746.]

1057. April 27. King's Speech (Prorogation).—King's Speech on prorogning Parliament this day. L. J., XV. 747. *In extenso.*

1058. June 16. Prorogation.—Commission for proroguing Parliament this day. *Parchment Collection.* L. J., XV. 748. *In extenso.*

1059. Sept. 1. Prorogation.—Commission for proroguing Parliament this day. *Parchment Collection.* L. J., XV. 750. *In extenso.*

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1060. Oct. 20. King's Speech, delivered this day, on the opening of the Session. L. J., XVI. 3. *In extenso.*

1061. Oct. 20. Partitions Bill.—Draft of an Act for the more easy obtaining Partitions. For contents *see* Annex (*a*) below. It is endorsed on an inner sheet as read 1ª on 22 Nov. 1695, and on the outside sheet as 1ª this day. L. J., XV. 598 and XVI. 4. [It was not further proceeded with on either occasion, and appears to have served the same purpose as the Select Vestries Bill at the present time.]

Annexed:—

(*a*) Breviate of the Bill. The Bill sets forth that, in Writs of Partition, the Process being Summons, Attachment, and Distress infinite, the Tenants do oft put the Demandants to great delay before they will appear, because the said Process and Distress are not by the Party or Under Sheriff duly executed; it therefore enacts that, after Process returned upon any Writ of Partition, and Affidavit made of notice given of the said Writ fourteen days before the day of the return of the same, if the Tenant to such Writ shall not within one week after the return thereof enter an appearance in such case the Court may examine the Demandant's title, and may give Judgment by default and award Execution, whereby such Proportion may be set out in severalty. Provided that, if the Party against whom Judgment shall be so given shall, within after such Execution executed, or in case of Infancy, Coverture, or non-sane memory or absence out of the realm, within one year after the determination of such disabilities, show good cause to the Court in bar of such Partition, then the Court may set aside such Judgment on payment of costs, and admit the Party to plead as if no such Judgment had been, and may award a new Execution to be made, notwithstanding the filing the former

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Execution: That, when the High Sheriff, by reason of distance or infirmity, cannot conveniently be present at the execution of any Partition, the Under Sheriff, in the presence of two Justices of the Peace, shall proceed to execution of any Partition by Inquisition as if the High Sheriff were present, and the High Sheriff may make the same return as if he were personally present at the execution.

1062. Oct. 20. Writ of Summons (V. Hereford).—Writ of Summons to Edward, V. Hereford. *Dated* 20 Oct. 1696. [Sat first in Parliament this day. L. J., XVI. 4.]

1063. Oct. 20. Writ of Summons (L. Haversham).—Writ of Summons to John Thomson de Haversham, Chr. *Dated* 20 Oct. 1696. [Introduced this day. L. J., XVI. 4.]

1064. Oct. 26. Writ of Summons (E. Warrington).—Writ of Summons to George, E. Warrington. *Dated* 26 Oct. 1696. [Sat first in Parliament this day. L. J., XVI. 5.]

1065. Oct. 26. Sawrey *v.* E. Derby.—Petition of Roger Sawrey, Esqre., and Jeremiah Sawrey his son, praying that the Earl may waive his privilege in an action of Ejectment from the Manor of Broughton and other lands in Lancashire brought by his lessee Robert Spencer against Petitioners, in which Spencer was successful in consequence of Petitioners' defence depending upon a Private Act of 4 Jac. 1, which was not admitted because it was not written upon stamped paper, notwithstanding the Order of the House of Lords, of 22 Nov. 1694, that such copies shall be authentic. Pray also that the entering of Judgment against them in the Palatine Court may be in the meantime stayed. *Signed* Jer. Sawrey. L. J., XVI. 5, almost *in extenso*.

[On this Petition being read this day, it was moved to hear the Judges. *L. Chief Baron:* If the *Postea* be returned, and the four days expired, Judgment may be entered, and the Court cannot grant a new trial. *Ordered* that, in case the Petitioners do move the Court of Exchequer for a new trial or in arrest of Judgment, it shall not be interpreted to be a breach of privilege. Then this point was referred to the Committee for Privileges (MS. Min.; L. J., XVI. 5)—There is no entry in Priv. Book at this stage—On 2 March a Petition of E. Derby (Annex *a* below) was referred to the Committee for Privileges, after an account of the matter had been given to the House by the Lord Chief Baron (MS. Min.). An Order was made for considering how far privilege should be allowed to attornies who were Peers' servants. (L. J., XVI. 109.) The Committee for Privileges met on 9 March, when the L. C. Baron and Baron Powys were called in, and *Sir Barth. Shore* was heard for E. Derby. E. Derby has a title to some lands in Mr. Sawrey's possession, and brought an Ejectment against some of the tenants. We had a verdict, and then Lord Derby's Agent got the tenants to attorn. Mr. Sawrey had leave of your Lordships to move for a new trial. What we complain of is, they have gone further, and the Counsel moved for a commitment of my Lord's Agent for getting the tenants to attorn. We say there was a breach of privilege in committing the Earl's servant. We insist it is lawful to procure an attornment pending any suit. We agree attornies or solicitors are not to have privilege; but if a man be an agent of a peer, and that man procures an attornment, that person shall be laid by the heels—this we think E. Derby has cause to complain of. *Mr. Sloane* (for the Earl): The Order made by the Judges was not right. Why an attorney, in serving a nobleman, is not fit to have

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privilege, I lay this before your Lordships. You gave leave for a new trial. The refusing to read the copy of the Act not on stamped paper was the only ground for a new trial. We submit to the new trial, and they had no power to go further. The new trial, say they, shall have an influence on the Earl's title. It appeared on Mr. Gibson's affidavit that there was no threatening at all. They say Mr. Gibson confessed he gave a covenant to the tenants to attorn. This was lawful, the Earl having given him authority. Counsel withdrew. *Proposed* to hear the Judges. Counsel called in and *L. C. Baron* heard: I have read the Petition. Heard what the Counsel said also. I sat at Lancaster, and I gave Mr. Justice Turton my assistance at the Assizes. The copy was offered to be read. It was opposed to be read by the Lord's Counsel. Your Lordships gave leave for a new trial. A Rule was made for it, and it was ordered Mr. Gibson to attend. Mr. Gibson had a day to show cause. Mr. Gibson came. This appeared, he was a known common attorney. He had given security to the tenants to attorn; after which E. Derby gave him security. *Powys, B:* I know nothing but what was in the Exchequer. It appeared to us that Mr. Sawrey had been in possession 40 years It appeared there had been a verdict by surprise. E. Derby's authority to Gibson read. Owned not read in Court. Another of E. Derby's authorities read. *Sir Barth. Shore* heard. Counsel withdrew. Order of 7th Novr. 1691 read, against privilege to attornies. *Proposed* to report specially whether attornies have privilege or not. *Ordered* to report substantially as in L. J., XVI. 124. (Priv. Book.)—On consideration of the Report on 23 March (L. J., XVI. 132), E. Derby's and Sawrey's Petitions were read, and E. Derby's Answer to the latter was offered and read. The Order of [7th] 9th Nov. 1691 was read. *L. C. Baron* and *Baron Powys* heard as to commitment of Mr. Gibson. *E. Derby* denies the matter of fact. One Counsel for the Earl ordered to be heard the following day (MS. Min.)—On 24th Sir *Barth: Shore* and the *Barons of the Exchequer* were heard, and Order made as in L. J., XVI. 134. House *moved* that Sawrey may be in the same condition as before the Order of the House for discharging Mr. Gibson. *L. Keeper* heard as to the attornment of tenants, and whether lawful. *E. Derby* declared he was ready to quit the attornments complained to be got or procured to him by Gibson, and whatever attornments have been since Gibson was released he freely quits. *The Barons* heard as to the attornments. *E. Derby* offered and consented to waive his privilege, and consented that all the attornments should be vacated and delivered back; and in the new trial he will not insist on any privilege. (MS. Min.)]

Annexed:—

(*a*) 2 March 1696-7. Petition of William George Richard, Earl of Derby. On obtaining his verdict, Petitioner authorised his Steward, one Edmond Gibson, a person altogether unconcerned in the suit, to take the attornments of tenants willing to attorn, and 82 attorned. The Sawreys, on obtaining an Order of the House on their petition (L. J., XVI. 5) enabling them to move for a new trial without breach of privilege, not only obtained a new trial, but caused Mr. Gibson to come two hundred miles to attend the trial, and the Court ordered him to be examined upon Interrogatories, and, on his refusing to deliver up the attornments, committed him to the Fleet Prison, where he still remains. The attornments were obtained freely, without threats or promise of reward. Petitioner conceives these proceedings exceeded the

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Order of the House, and are in violation of his privilege, tending greatly to his prejudice in recovery of estates which had been in his family for 150 years. Prays Mr. Gibson may be released, and that the Defendants and their Counsel may be dealt with as the House thinks fit for the breach of Petitioner's privilege. *Signed* by E. Derby. *Endorsed* as read this day. L. J., XVI. 109.

(*b*) 16 Mareh 1696–7. Petition of Roger Sawrey, Esqre., and Jeremiah Sawrey, his son. Petitioner Roger 40 years ago bought the manor of one Mr. Lee, in the time of Charles, E. Derby, the present Earl's father, for 4,300*l*., though worth only about 200*l*. a year, and, on his son's marriage, settled it on him and the issue of the marriage, reserving a moiety to himself and his wife for their lives. The present Earl obtained a verdict by surprise, and it was set aside and a new trial ordered. Gibson, under pretenee of authority from the Earl, obtained attornments from the tenants, by threatening that the Earl would sue them for 18 years' rent, and executed a eovenant to save them harmless, which he had no authority to do. He is a eommon attorney at law and solieitor in Chancery, lives 50 miles away from the Earl, and has never done any other business for him. Pray that all the attornments may be vacated, and that Petitioners may be put in the same state as at the time of the trial, or that they may be at liberty to proeeed at law against Gibson and the attorning tenants. *Signed* by both Petitioners. *Endorsed* Mareh 24th 1696 the E. Derby deelared that the attornments since the trial shall be delivered up and vacated, and possession as it was at the verdict, and that he waiyed his privilege. [Read this day, and E. Derby to answer. L. J., XVI. 124.]

(*c*) 23 March 1696–7. Answer of E. Derby to above. The manor was proeured in the late time by Lee from the Commissioners appointed by the then powers at Drury House, partly for money, which was very ineonsiderable and paid in debentures, and partly for his then pretended merit towards the Usurpers, and Lee, being in possession, prevailed on the Earl's father, who was then in distress and under extreme hardships to eonvey the manor for about 100*l*.; and Sawrey, having about the same time and in the same manner got into possession of some ehureh lands in the bishopric of Durham, where Lee was born, exehanged them for the manor. After the Restoration, Lee was dispossessed of his ehureh lands, but Sawrey has gone on reeeiving the rents of the manor. Respondent reeovered a eonsiderable part of his paternal estate of which his father was deprived, as the latter had not any power to dispose of it, and he made an entry 18 years sinee and brought an Ejeetment for the manor of Broughton. Repeats that the Sawreys exeeeded the Order of the House. The eovenant to save the tenants harmless was lawful. The attornments were not obtained by indirect means, but £40 having been spent among 80 tenants. Gibson acted under Respondent's authority, and was merely his Steward, and does not fall under the Order denying privilege to attornies. *Signed* Derby. *Endorsed* as brought in this day. *See* L. J., XVI. 132.

1066. Oct. 30. E. Montagu *v.* E. Bath.—Petition of the Rt. Honble. Ralph, Earl of Montagu. John, E. Bath, and Petitioner agreed,

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on 28 Nov. 1693, to waive their privilege in all matters between them relating to the estate of the late Duke of Albemarle. But in an actien between Robert Rickards, one of the pretended tenants of E. Bath, and Henry Cornforth, bailiff to Petitioner, for a distress taken on the lands of the late Duke, on Cornforth obtaining a verdict, E. Bath insisted on his privilege, as he did also in two other similar actions. Prays the House not to suffer E. Bath to re-assume his privilege. L. J., XVI. 7, almost *in extenso*. *Endorsed* Novr. 6th 1696. No order made this day, the E. of Montagu upon the debate proposing that the Judgment upon the verdict obtained against the E. of Bath shall not be entered for 6 months, provided he prosecute within that time the witnesses he has brought informations against, and to pay the costs of those that shall not be convicted, as the Court shall adjudge; to which the E. of Bath agreed, and declared he would not insist on privilege after that time. [On the Petition being read this day and referred to the Committee for Privileges, a Paper was read wherein E. Bath and E. Montagu had mutually consented to waive privilege. (MS. Min.)—On 31 Oct., in Committee for Privileges, the above Petition and the mutual consent were read. E. Bath offered his Answer in writing, directed to the House (Annex *a* below) which was taken and read by the clerk. 7 Dec. 27 Eliz. V. Bindon complains of Robert Finnes being confined in the Compter. Privilege not allowed because not claimed when first attached. Sawrey's case *v.* E. Derby, 26th inst., was read. (*See* No. 1065.) Ordered to report E. Bath's Answer and the precedents, as in L. J., XVI. 8. (Priv. Book.)—After debate on 2 Nov., the matter was further debated on 6 Nov., when E. Montagu's Petition and E. Bath's Answer (Annex *a* below) were read. *Moved* that the Judges be asked if the witnesses complained of were esteemed as material in the cause. *C. J. Common Pleas:* They were material as to one point. It was alleged that some witnesses were not in town at that time. *Seeond Question*, Whether E. Bath had liberty within four days to move for a new trial? *Powell, J.*, heard also. A precedent was called for and read, 12 April 1690, Duke of Southampton *v.* Wood, 10 Novr. 1690. The Petition and answer in this case read; 11 June 1661, L. Chamberlain and E. Northumberland *v.* Duchess of Somerset. Order 19 June read, and the Petition therein mentioned. 18 April 1689, E. Anglesey and his lady, read out of the Journal. *E. Montagu* proposed that if E. Bath prosecute all the persons against whom he had brought informations within six months, and pay costs if not convicted, that then he waive his privilege, to which E. Bath agreed. *Agreed* by the House to have no entry in the Journal (MS. Min.)—On 25 Nov. Counsel were called in upon E. Bath's Petition and E. Montagu's Answer (Annexes *b* and *d*), and on E. Montagu's Counsel proposing to consider of the former Petitions and Answers, Counsel were restricted to the last Petition and Answer. *Sir Barth: Shore* (for E. Bath): We cannot prosecute the witnesses except the Judgment be entered. We beg we may have no impediment to hinder us from prosecuting the twelve witnesses. *Mr. Northey* (for same): The nature of our petition arises from itself. *Sir W. Rawlinson* (for E. Montagu): The matter is perfectly in the King's Bench, and E. Bath may proceed. *Sir Tho: Powys* (for same): E. Bath is to have privilege as he pleases. If a stop be put to the entry of the Judgment, then, after two terms, if E. Montagu's bailiff dies, he will lose his costs. This brings a most manifest prejudice to our cause. It is a prejudice in the opinion of the world against the witnesses. Entering the verdict will do E. Bath's business. *Proposed* to hear the Judges whether

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there can be a proceeding against the witnesses if neither verdict nor Judgment be entered. *Treby, C. J.,:* I think E. Bath could not proceed. *Powell, J.,:* E. Bath is obstrueted if the verdiet is not entered. After debate, E. Bath and E. Montagu eame to an agreement and signed it, and it was delivered to the L. Keeper to keep. (MS. Min.)—On 22 Dec. 1697 (a year later) E. Montagu eomplained to the House that E. Bath, eontrary to an agreement between them, had resumed his privilege. E. Bath ordered to attend next day (MS. Min. *See* L. J., XVI. 184).—On 23 Dec. 1697 E. Bath was heard, and desired that E. Montagu might revive his Petition, or put in a new one (MS. Min., *expunged*).—On 3 Jan. E. Montagu presented a Petition (Annex *e*) whieh E. Bath answered on the 10th (Annex *f*); E. Montagu replied on the 14th, (Annex *g*) and E. Bath rejoined on 18th (Annex *h*) (L. J., XVI. 186, 190, 194, 197). -On 26 Jan. 1697–8 Counsel were heard. *Sir Tho: Powys* (for E. Montagu): We hope that what is signed by these two Lords should stand. *Mr. Serj. Wright:* The question is whether your Lordships will let E. Bath resume his privilege after twice waiving it. *Mr. Attorney General* (for E. Bath): We hope E. Bath has not broken his agreement by insisting on his privilege. *Sir Barth: Shore* (for E. Bath): E. Bath's insisting on privilege was to prevent oppression and wrong. *E. Montagu's Counsel* offer not to make use of any witnesses that E. Bath has brought informations against, and to waive them generally in all matters whatsoever. John Riee and Edmond Turner sworn. Then ordered as in L. J., XVI. 202. (MS. Min.)].

Annexed:—

(*a*) 31 Oet. Answer of the Rt. Honble. John, Earl of Bath. E. Montagu, who deelared himself married to the Duchess of Albemarle, set up his privilege on two oecasions to prevent judgment being pronounced on Bills brought in Chaneery by the Duehess and others against Respondent. Thereupon a Petition was prepared to be presented to the House praying the Lord Keeper to give Judgment, and the Paper referred to in Petition, whereby both Earls waived their privilege, was signed. Afterwards there was a trial and verdict, as mentioned in the Petition; but the verdict was obtained by perjury of twelve witnesses, and Respondent, during the Reeess, insisted on his privilege only in order to prosecute the perjured witnesses before they eould give perjured evidenee in other trials. Will no longer insist upon his privilege than until his informations against the witnesses shall be tried and determined. *Signed* Bath. *Endorsed* as delivered to the Committee for Privileges this day and read, and read in the House on 2 Nov. (*See* notes above.)

(*b*) 19 Nov. Petition of John, Earl of Bath. In spite of E. Montagu's agreement not to obstruet the trial of the witnesses within six months, his agents are obstructing by refusing to plead this term, and by refusing to agree that the trial in the Common Pleas, wherein the perjury was eommitted, should be entered up of Reeord, without whieh Petitioner eannot proeeed to trial. Petitioner's promise not to insist on his privilege after six months is thus likely to be used to his detriment, if the trial is protraeted beyond the six months, and E. Montagu's agents are insisting on his privilege without limitation in all causes relating to the late Duke of Albemarle's estate, as appears by next Paper. Prays E. Montagu may direet his attorney not to

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obstruct as aforesaid, or that Petitioner may have his time of privilege enlarged until he shall be able to compel the witnesses to trials for their notorious perjuries; and that E. Montagu may not reassume his privilege indefinitely when Petitioner stands restrained to a limited time. *Signed* Bath. *Endorsed* as read this day. L. J., XVI. 15, 16.

(*c*) Notice by Anthony Warde, attorney for E. Montagu, to Mr. Sherwood, that his Lordship insists upon his privilege in the causes of Rolfe *v.* Sweetapple *et al.* and Bealing *v.* the same, and in all other causes relating to the estate of the late Duke of Albemarle. *Dated* 7 Novr. [Appended to preceding.]

(*d*) 23 Nov. Answer of E. Montagu to preceding petition. Respondent has put in appearances for the accused witnesses, which is all he can do, as the entering up of the Judgment has been delayed by Petitioner insisting on his privilege. Petitioner waives his privilege and reassumes it as it suits him. Respondent prays the House to make such order as will prevent his doing this. As to Respondent insisting on his own privilege indefinitely, it was agreed that there should be no prosecutions as to the estate until the six months had expired. *Signed* Montagu. *Endorsed* as brought in this day.

(*e*) 3 Jan. 1697–8. Petition of E. Montagu. The first day of the last term, when a Jury in Westminster Hall was ready to try the cause, E. Bath reassumed his privilege, contrary to his agreements and to the Rules of the House, to Petitioner's great loss and damage, some of his material witnesses being now dead. Prays he may not incur the censure of the House by proceeding against E. Bath below, according to his agreements to waive his privilege, and insists it to be no breach of privilege that he should so do. *Signed* Montagu. *Endorsed* as read this day, and Order made by consent on 26 Jan. 1697–8. L. J., XVI. 186.

(*f*) 10 Jan. 1697–8. Answer of E. Bath to preceding. Recounts the proceedings until the agreement of 25 Nov. (*see* Notes above, p. 255) to waive privilege. Pursuant to that agreement Respondent caused informations to be exhibited in the King's Bench against the perjured witnesses, but E. Montagu, instead of doing all he could to speed the trials, insisted on his privilege, and would not permit the entry up of the verdict in which the perjury was committed; and his attorney, after ordering appearances for four of the witnesses, withdrew his Order, until compelled by the Court to stand to it, and the Defendants, in order to spin out the time allowed for the trials, refused to plead in Michaelmas term, and got the trial of two of the informations put off till Easter term, upon pretence they could not be ready. The matter of eight of the twelve informations was whether Sir John Copplestone was in London in July 1681, and of the other four whether Mr. Strode was so, and the whole might have been tried in one day; but E. Montagu's agents spun out the hearing, bringing up 40 poor ignorant fellows to swear to a particular month sixteen years before, and one of these was detected in a manifest perjury and ordered by the Court to have an information exhibited against him. By these acts, Respondent was prevented from having more than four of the informations tried within the

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time limited ; but these were all found guilty of wilful and corrupt perjury, and Respondent hoped to have been eased in the trials of the rest. E. Montagu then hastened to bring on the trial of the title, and Respondent admits he thereupon insisted on his privilege, there being no other way of preventing Petitioner from using the still unconvicted witnesses a second time as witnesses to the title, and submits that in so doing he acted in consonance with what was really intended by the agreement, viz., that he should hold his privilege until the criminals should be tried, and not stand confined to the limited time, if obstructed by the Petitioner, so as he prosecuted as effectually as by law he could. It would be derogatory to the House to permit Petitioner to profit by the tricks and foul practices of his agents. Two of the convicted witnesses, by pretence of a defect in the informations, have since been discharged, and will be used against Respondent, unless their discharge is reversed by a Writ of Error petitioned for by Respondent, which Petitioner's agents most violently oppose ; and, until that Writ of Error is decided, Respondent is advised not to proceed with the other informations, which are drawn in the same terms as those now pronounced defective. The Jury referred to in preceding Petition was summoned after Respondent had given notice that he would stand upon his privilege, and with the object only of prejudicing Respondent with the Jury, as the cause of their needless trouble. Petitioner has found means to procure a pardon for one convicted for coining false guineas, in order to produce him as a witness ; and his country witnesses are being encouraged by reports that he will procure pardons for two of his witnesses convicted and outlawed for perjury. Respondent therefore hopes the House will not, by taking away his privilege, subject his cause to criminated desperate witnesses, until they have received an exemplary punishment, to deter others, and prays it to reject Petitioner's complaint, as on several previous occasions since the judgment of the House on his Appeal in the main cause concerning the late Duke of Albemarle's estate. *Signed* Bath. [Read this day. L. J., XVI. 190.]

(*q*) 14 Jan. 1697–8. Replication of E. Montagu to preceding. Much of E. Bath's Answer is irrelevant. E. Montagu's verdicts below were obtained on full and pregnant evidence, the circumstance as to Sir John Copplestone and Mr. Strode being waived by the Court as superfluous, and E. Bath's prosecution of the witnesses on this point was only a pretext for reassuming his privilege until they had been tried. Thereupon E. Montagu, to ease the House of any further debate, entered voluntarily into the agreement of 25 Nov. 1696, whereby it was agreed that the verdict in Rickards *v.* Cornforth and Judgment thereupon was to be entered forthwith, and that there should be no further proceeding in any cause relating to the Duke of Albemarle's estate till after the end of Easter term 1697 ; and E. Bath undertook to prosecute the informations for perjury with effect against all the Defendants, and E. Montagu undertook to cause them to enter pleas of not guilty before the end of the next Hilary term. This will appear from the agreement, now in the hands of the L. Chancellor. The House would doubtless have made an

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Order that E. Bath should never reassume his privilege after the end of the six months voluntarily allowed him by E. Montagu, but that E. Bath gave his word and honour that he never would so do. E. Montagu performed his part of the agreement, and E. Bath might have tried all the witnesses in last Easter, Trinity and Michaelmas terms, and was in no way obstructed by E. Montagu. E. Bath, while standing upon his privilege, is prosecuting E. Montagu in Chancery, prosecuting a Writ of Error in King's Bench, and prosecuting E. Montagu's tenants and servants at law, in relation to the Duke's estate; and his claim of privilege tends to obstruct justice, as some of E. Montagu's witnesses are dead, and others old and infirm, and very likely to die. When a trial was appointed in King's Bench in Trinity term last on the merits, E. Montagu offered E. Bath not to produce any evidence as to Sir John Copplestone or Mr. Strode being out of town at the time of the pretended execution of the pretended deeds, that being the only point to which the accused witnesses deposed. Insists that E. Bath, having waived his privilege, cannot reassume it, and hopes he will not incur the censure of the House in proceeding against him below to assert his right to the estate. *Signed* Montagu. *Endorsed* as brought in and read this day. L. J., XVI. 194.

(*h.*) 18 Jan. 1697–8. Rejoinder of E. Bath to preceding Replication of E. Montagu. E. Montagu has evaded the charges of obstructing the prosecution of the perjured witnesses, who have moreover been defended at another's charge by great numbers of pretended contesting witnesses, and by the greatest Counsel in the realm, the parties themselves being no way privy thereunto, one declaring publicly in Court that he did not know for what he came thither, or that ever he had been tried or found guilty. This is the first instance of the kind that ever was known in England. E. Bath hopes he may insist on his privilege until he has punished these criminals, to deter others; and he conceives that to have been the sense of the House. If the perjurers are not punished, there is a danger of the like false testimony, whereby two verdicts formerly given for E. Bath were turned into verdicts against him. Only one witness has died, one Osborn, who has thus escaped punishment for subornation and other crimes for which he was under prosecution. E. Montagu's obstruction of the prosecution of the criminals is too well known to need a proof. E. Bath's Bill in Chancery was brought because he had not time to move at law for a new trial; and there is no privilege as to the Writ of Error, which is in the nature of a defence against an erroneous judgment. As to the right to the late Duke's estate, the true right of the Duchess was never obstructed, but E. Montagu's pretended right is chiefly, if not solely, grounded on an illegal buying of a pretended title of Christopher Monk, Esqre., *pendente lite*, who, without E. Bath's seeking, made proposals to release his pretended claim to the real, and transfer his right to the personal, estate, accepting in lieu thereof part of the late Duke's estate under E. Bath's title. E. Bath gave no credit to these proposals, until they were brought to him in writing under Christopher Monk's hand by a person of great honour and quality, and he then entered into

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articles with Monk to give effect to these proposals; but when Monk was about to execute the releases drawn pursuant to the said articles, he was by E. Montagu's agents withdrawn, concealed and kept back from executing the conveyances, that so E. Montagu might continue to have a colour to vex, tire and oppress E. Bath with multiplied suits. E. Bath has in his custody not only the counterpart of E. Montagu's illegal conveyances, but also a full proof of a judgment in 12,000*l.* given by Monk to one of E. Montagu's Counsel without any other consideration than services already done, which what those were, and how meritorious of so great a reward, he submits to their Lordships' judgment. He knows of no offer, as alleged, as to the witnesses, except what was whispered by the said Counsel at the King's Bench bar the last day of term, but with what authority, if any, he knows not. Repeats the prayer of his answer (Annex (*f*) above). *Signed* Bath. *Endorsed* as brought in and read this day. L. J., XVI. 197.

1067. Nov. 6. M. Normanby *v.* D. Devonshire.—Petition of John, Marquess of Normanby. Petitioner agreed on 21st Feb. with John, L. Berkeley of Stratton, for the purchase of Berkeley House, which, since that agreement, D. Devonshire pretended he also had contracted to purchase. Petitioner brought a Bill in Chancery against L. Berkeley and D. Devonshire for execution of his agreement. L. Berkeley waived his privilege, and answered, as also, after some delay, did the Duke, who afterwards, however, resumed his privilege; and though all three agreed to waive their privilege, and, on the faith of that arrangement, Petitioner and L. Berkeley signed papers to that effect, and Petitioner suffered Sir Cloudesley Shovell to be examined as a witness against him, D. Devonshire has resumed his privilege, and is making alterations in the house, as if it were his own. Prays the House will not permit him to be prejudiced in this way. *Signed* Normanby. L. J., XVI. 8. [On 13 Nov. L. Berkeley and M. Normanby were heard, and D. Devonshire's Answer (Annex (*b*) below) was read.—On 30 Nov. Counsel were heard on the matters of fact. *Mr. Finch* (for M. Normanby): The Bill was filed 4 April. L. Berkeley occasioned the filing this Bill by his letter. 27 April L. Berkeley answered. 18 May the Duke answered. *John* and *Wm. Brocket* examined. *Sir Barth: Shore* (for the Duke): We insist that we have done no act which will amount to waiving privilege. Clerks ordered to search precedents relating to the waiving and resuming of privilege.—On 4 Dec. the following precedents were read:—

7 Dec., 23 Eliz: V. Bindon's Case.
29 April 1628. Lady Purbeck.
11 June 1661. L. Chamberlain [and] E. Northumberland. *E. Bath* heard to this precedent.
15 Nov. 1669. Sir Maurice Eustace *v.* E. Anglesey.
18 April 1689. Countess Anglesey *v.* E. Anglesey.
14 Nov. 1685. E. Huntingdon *v.* Grenville.
27 March 1677. Lady Leigh *v.* Lord Leigh.
9 Nov. 1680. Bp. Chichester *v.* Ch. Wardens [of St. Peter the Great].
10 and 11 Nov. 1690. Dean of Windsor *v.* Bp. Sarum.
15 Dec. 1691. Watts *v.* Hoskins.
12 April } 1690. Bp. Coventry and Lichfield *v.* D. Southamp-
10 Nov. } ton.
15 Nov. 1690. Duchess of Albemarle *v.* E. Bath.

1696. — No. 1067. The three Lords concerned were then heard, and L. President, E. Notts, E. Rochester, E. Monmouth, E. Marlborough, E. Cornwallis, and L. Godolphin were appointed to treat and endeavour to make an agreement between them.—On 9 Dec. *E. Nottingham* acquainted the House that the Lords had met and made some proposals for an agreement: (1) That the Duke should continue his privilege this Session—to which the Duke did not agree. *The Duke* heard—that he would waive any privilege as to any trial at law. *M. Normanby* heard also. House *moved* to order that the Duke shall retain his privilege during this Session and no longer. *The Duke* declared that he was desirous the House should give their opinion whether he had waived his privilege or not on M. Normanby's Petition and his Grace's Answer. After debate, *Proposed* that the Duke may, if he please, retain his privilege of Parliament in this Cause until the determination of this present meeting of Parliament by prorogation or adjournment, and that no privilege shall be insisted on in this Cause by any of the three Lords after that time in any Court whatsoever. The Previous Question was put and resolved in the affirmative, as also the main question. *The Duke* desired time till to-morrow to consider whether he will waive his privilege immediately. He will submit to anything this House shall think fit. *Agreed* not to be entered until to-morrow —On 10 Dec. *the Duke* declared he would waive his privilege, and that no privilege shall be insisted on in this Cause by any of the three Lords in any Court whatsoever. (MS. Min.)]

Annexed :—

(*a*) Order of the Lord Keeper for both sides to put in their Answers to each other within three days. *Signed* Edw. Goldesbrough. [Appended to M. Normanby's Petition.]

(*b*) 12 Nov. Answer of William, Duke of Devonshire to M. Normanby's Petition. Respondent's agreement with L. Berkeley was made verbally on 20th Feb. and reduced to writing on the morning of the 21st, and Respondent paid 500*l.* in part payment, according to the agreement. M. Normanby's pretended agreement, on the other hand, was not signed until the afternoon of the 21st, at the Tower Wharf, when Lord Berkeley was going to sea, and endorsed by the latter with these words, "when I receive such earnest as I expect, I agree this to be a firm bargain"; by which word "earnest" cannot be understood anything certain; and moreover L. Berkeley directed his Steward not to part with this pretended agreement till after the time for Respondent to pay the 500*l.* was expired. M. Normanby did nothing for four months after Respondent and L. Berkeley had put in their Answers to his Bill, and Respondent, thinking thereby that M. Normanby was satisfied, completed the purchase; but during his absence from town M. Normanby applied to the Lord Keeper, and Respondent insisted on his privilege, and never gave his Counsel, Mr. Dobyns, any authority to say he would waive it, as alleged. Hopes he may not be disturbed in his dwelling, which will hinder him from attending on their Lordships' service, according to his duty. *Signed* Devonshire. *Endorsed* as brought in this day, and read the following day. *See* L. J., XVI. 11.

1068. Nov. 6. E. Lincoln *v.* Rolle.—Petition and Appeal of Henry, Earl of Lincoln, an Infant, by Susanna, Countess of Lincoln, his mother and procheïn amy. Edward, a late Earl of Lincoln, being seized in fee

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of certain property, and intending it to accompany the title, for the support of the honour, devised it in two wills, to Petitioner's father, Francis, late Earl of Lincoln, for his life, with remainder to Petitioner and the heirs male of his body, with many other remainders over in tail male, and directed that his household goods at his chief houses at Sempringham and Tattershall Castle should remain there as heirlooms to the succeeding Earls. But the Defendants Samuel Rolle, Vere Booth and Hugh Fortescue and Bridget his wife set up a title as heirs at law to Earl Edward, grounded upon a pretence of deeds of lease and release, whereby Earl Edward, in consideration of a marriage alleged to be intended between him and Mrs. Ann Calvert, had settled the said deeds, until the marriage took effect, on him and his heirs, and, in case the marriage took effect, then, as to part of the said estate, on trustees for Ann Calvert and her heirs, the residue to be sold for clearing the incumbrances on Ann Calvert's part, and the surplus to be paid to Petitioner's father, Earl Edward's executor. The marriage never took effect, nor ever was intended or agreed to by Mrs. Calvert, nor was any overture made by the Earl on that behalf, who died seized of the estate as fully as when he made the wills ; yet the defendants claimed that the wills were revoked. Richard Wynne, Esq., had a claim against the estate as a mortgagee for 12,200*l.* ; and Christopher Davenport, Gent., and George Townsend, Gent., were trustees under the deed of release. Petitioner filed a Bill in Chancery against all these Defendants, who filed a Cross Bill, and obtained a Decree whereby Rolle, Booth and the Fortescues were admitted to the redemption of the premises, and Davenport and Townsend were to convey their interest to them. Though the mortgage is not yet paid off, Rolle, Booth and the Fortescues have compelled several of the tenants to attorn to them. Appeals against the Decree, which is erroneous, and prays that the estate may be ordered to be conveyed to him on his paying off the mortgage, and for stay of proceedings on the Decree. *Signed* Lincoln, S. Lincoln. *Countersigned* Jo: Danyell, Saml. Carter. L. J., XVI. 9. [At the hearing, on 21 Jan. 1696–7, *Mr. Serjt. Wright* and *Mr. Pooley* were heard for E. Lincoln, *Sir Tho: Powys* and *Sir Barth: Shore* for Respondents Rolle &c., and *Mr. Jekyll* for the mortgagee. After debate, *L. Chief Baron* was heard : By this deed the estate is limited till the marriage take effect. The trustees have no power without the marriage took effect. On question whether the Decree should be reversed, Contents 29, Not Contents 31 ; Tellers E. Huntingdon and E. Manchester. MS. Min.]

Annexed :—

(*a*) 16 Nov. Joint and Several Answer of Christopher Davenport and George Townsend, Gents. The estate conveyed to Respondents as trustees by the deed of release consisted of Tattershall *alias* Tattleshall Castle, the College, Church Collegiate and Almshouse of the Holy Trinity of Tattershall, with the site, precinct, &c. of the same, the manors of Billingbrook, Sempringham and Bulthrope, and the rectories and parsonages impropriate of the last two, all in Lincolnshire. Respondents have not yet conveyed the premises in obedience to the Decree, as they have not yet been required thereto. Are only trustees, and pray to be dismissed with costs. *Signed* Chris : Davenport, Geo: Townsend. *Countersigned* Tho: Filmer. *Endorsed* as brought in this day.

(*b*) 17 Nov. Joint and Several Answer of Samuel Rolle, Esqre., Hugh Fortescue, Esqre., and Bridget his wife, and the Honble.

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Vere Booth, Spinster. Earl Edward knew that the deeds of lease and release would revoke his previous wills, and yet he never made any new will, whereby it is apparent that it was not his intention that the estates should go to Appellant. Respondents are Earl Edward's nearest of blood and kin and his heirs at law. The Decree appealed from is just. *Signed* Sl. Rolle, H. Forteseue, Bridt. Fortescue, V. Boothe. *Countersigned* Tho : Filmer. *Endorsed* as brought in this day.

(*c*) 18 Nov. Answer of Richard Wynn, Esqre.—Respondent purchased of Edward, Earl of Lincoln, the Manors of Folkingham and Threckingham and other lands, &c., for 24,491*l.* 3*s.* 6*d.*, and holds a mortgage of Sempringham, Burthorp, Tattershall Castle, &c., for 12,200*l.* paid by him to the said Earl. Is ready to convey the mortgaged premises on repayment of the said sum and interest, in accordanee with the Deeree, and prays to be allowed costs. *Signed* N. Martyn, J. Jekyll. *Endorsed* as brought in this day.

1069. Nov. 9. Eastmond *v.* Sandys.—Petition and appeal of Joseph Eastmond, executor of Henry Eastmond, and Samuel Nayle. Mr. Sandys, Rector of Yeovileton in Somersetshire, brought a Bill in the Court of Exchequer against Petitioners for agistment tithes for the depasturing and fatting their oxen within the parish for ten years, and the Court deéreed them liable for the value of the tithe herbage for feeding their oxen and unprofitable cattle not used for the plough within the parish, and, for those used for the plough and afterwards turned off and fattened in the aftermarshes or egrasses, during the time only when they were depastured in the pastures, but not in the aftermarshes ; and the Deputy Remembrancer accordingly reported them liable for 39*l.* 11*s.* 6*d.*, and the costs are taxed at 75*l.* against Petitioners. Appeal against the Report beeause it ineludes years not claimed for, because it eharges them for the time when the oxen were ploughing and the Rector had the tenths of the beasts' labour, and because it does not distinguish between the time when the oxen were worked and the time when they were turned off to depasture. *Signed* Samuel Naile, Joseph Eastmond. *Countersigned* Jo: Hawles, Ja: Parsons. L. J., XVI. 10. [At the hearing, on 12 Dee., *Sir Tho: Powys* and *Sir Barth: Shore* appeared for Appellants, and *Mr. Finch* and *Mr. Northey* for Respondent. The Appeal was dismissed with costs. MS. Min.]

Annexed :

(*a.*) 30 Nov. Answer of Edwyn Sandys, Clerk. The oxen were not charged during the time they were used for ploughing, as the Decree expressly excepted that time, and there was no need for the Report to specify the times for which they were not eharged. Prays the Appeal may be dismissed with exemplary costs. *Countersigned* Wm. Ettrick. *Endorsed* as brought in this day.

1070. Nov. 12. Warner's Estate Act.—Draft of an Act explaining a former Aet of Parliament, intituled an Act for enabling Trustees to sell part of the Estate of Edmund Warner, deeeased, for payment of his debts and for preserving the rest for the benefit of his heir. The Commons added a proviso saving the rights of the lords of the manors where certain copyhold lands lie, a Clause securing the payment of fines to the lords of these manors, and a proviso excepting the personal estate. [Read 1ª this day ; Royal Assent 1 April following. L. J.,

XVI. 10, 142. 9 Will. III. c. 43 in Long Cal. *See also* Com. Book, 20 Nov.] 1696. —

1071. Nov. 14. Call of the House.—Letters of excuse from several Lords, with certificates, in reply to letter of the Lord Keeper of date (L. J., XVI. 12), enclosing Order for their attendance, and in reply to other similar Orders. No. 1071.

[On 14 Nov. the clerks, pursuant to the Order of the 12th (L. J., XVI. 11), gave the House an account of the precedents concerning absent Lords :—

1 Hen. VIII. in modus tenend. Parliament. Three days of the Parliament read.

1 Car. I. 28 June 1625. Absent to pay 5*s.*

9 Nov. 1669 read.—Lords fined 40*s.* each.

1 Feb. 1692.—Peers absent to pay 100*l.*

At Lord Mohun's trial, 6 Feb. read.—E. Ailesbury fined 100*l.*

Ordered, That such Lords as do not attend the service of the House by a day to be appointed shall be sent for in custody.

Ordered, That no Lord absent himself from the service of the House [by being out of town] without the leave of the House, upon pain of being sent for in custody, and that no such leave be asked for but between the hours of 12 and 2 of the clock.

On 23 Nov., the list of absent Lords being read who were to attend this day, the following Orders were made :—

L. Guilford, V. Hatton and V. Saye and Sele to be attached.

L. Bp. Oxford to be attached if not attending by Thursday next.

E. Suffolk if not here in two days.

On 26 Nov. L. Coventry ordered to be sent for in custody. L. Brooke to be attached if not here by Tuesday.

On 30 Nov. the Duke of Beaufort and E. Huntingdon to be attached if not here by Thursday fortnight. L. Byron, L. Chandos, L. Bp. Norwich, L. Bp. Coventry and Lichfield, E. Derby, E. Rutland and D. Newcastle to be attached if not here on certain days. MS. Min.]

The letters are as follows :—

(*a*) (E. Berks.) 23 Nov. Besides being near fourscore years of age, he has the gout to that extremity that he has lost the use of his limbs for some years past, as will be attested by Mr. Thos. Howard, son of Sir Robt. Howard, who was with him last summer, if the Lords be pleased to let him come before them. Desires his Lordship to let the Lords know that he is not able to obey their commands. *Dated* Charlton, 18 Nov. [Read this day : Excused. L. J., XVI. 16.]

(*b*) (Bp. Worcester.) 23 Nov. It is a great trouble to him that he is not in a condition to pay that ready obedience to the Orders of the House which ought to be given to them ; but he hopes the consideration of those ill circumstances he has been and continues under (concerning which he encloses a certificate from the person who constantly attended him) will incline the House to give him time till he may without hazard to his life attend their service. *Dated* Worcester, 18 Nov. [Read this day : Excused. L. J., XVI. 16.]

(*b*)[1] Certificate of Thos. Bearcroft that the Bishop of Worcester, whom he has attended for a year, labours under very dangerous indispositions, making him incapable of travelling except at the hazard of his life. *Dated* Worcester, 18 Nov. *Attested* Humph. Fyshe, Tho. Watson.

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(*c*) (E. Berkeley.) 23 Nov. Has always readily obeyed their Lordships' commands when his health would permit, and is therefore very much troubled he is not in a condition to wait on their Lordships at present, the gout having so weakened him that a journey to London will extremely prejudice his health, if not endanger his life. Hopes his Lordship will make his excuse to the House. If their Lordships require it, he will send up two persons to attest his illness. *Dated* Cranford, 19 Nov. [Read this day : Allowed a weeks' further time. L. J., XVI. 16.]

(*c*)[1] Cover of preceding.

(*d*) (Bp. Llandaff.) 23 Nov. He will be 80 next month, when his strength will be (if it be not already) but labour and sorrow, and he hopes the House will indulge that age a full discharge from all other labour and sorrow than what itself brings. He has only one foot to put into a stirrup, having been disabled in the other 12 years by an ignorant and careless Welsh surgeon, who, instead of setting one joint, broke out two bones. As for a coach, it must have been made of iron to endure the ways hereabouts, as they now are or have been for a long time. *Dated* Mathern, 18 Nov. [Read this day : Excused. L. J., XVI. 16.]

(*e*)[1] (E. Rutland.) 23 Nov. Has received his Lordship's letter commanding his attendance on the 30th inst. Would obey with all cheerfulness imaginable, if his great indisposition, which has hung on him these five years, did not disable him. Assures his Lordship on his word and honour that he finds so visible a decay within himself, that he cannot undertake the journey without shortening his life. Beseeches his Lordship to present him humbly to the House ; and, if their Lordships refuse to believe him, and send for him in custody, he can only repeat that it will shorten his days. Is confident their Lordships are very well satisfied of the duty he has to the King and the present Government. *Dated* Haddon, 17 Nov. [Read this day : Not excused. L. J., XVI. 16.]

(*e*)[2] (E. Rutland.) 9 Dec. Received L. Keeper's letter this morning, with the second Order of the House. Hopes his answer to the first had been received. What he wrote then was so just and true that he can offer no more than he has done, so must submit to their Lordships' pleasure ; and, being he is not able to undertake such a journey without the hazard of his life, he will patiently bear what their Lordships think fit to lay upon him. *Dated* Haddon, 4 Dec. [Read this day. Nothing done on it. No entry in L. J.]

(*e*)[3] (E. Rutland.) 22 Dec. Certificate of Gilbert Heathcote, M.D., that under present circumstances his Lordship cannot be removed without manifest danger of life. *Dated* Haddon, 17 Dec. [Read this day. *Launcelot Emmot* (sworn) : The E. Rutland is ill, and had a kind of vertigo while I was there. I verily believe, if he had come up, it would have endangered his life. Consideration of certificate adjourned to 7 Jan. L. J., XVI. 45 ; MS. Min. No further entries.]

(*f*)[1]. (L. Coventry) 23 Nov. None would pay a readier obedience to their Lordships' Order than himself, were it not that his age and the craziness of his health have now rendered him very unfit either to winter in London or to take a journey thither at this time of the year. The last Session he had so ill a health there that he could not attend the House so constantly

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as he desired, and he has lately been so ill, and is still so indisposed, that he is compelled to desire to be excused attending at present till his health and the season of the year may, with God's permission, allow him to take such a journey. Entreats his Lordship to represent this to the House. *Dated* Crombe, 18 Nov. [Read this day: not excused. L. J., XVI. 16.]

(*f*)[2] (L. Coventry) 7 Dec. Certificate of John Bagley, M.D., that, considering his years and the present state of his health, L. Coventry is not in a condition to travel without danger to his life. *Dated* Crombe, 2 Dec. [Read this day. *Tho: Evison* (sworn) says he is in bed and ill, and had not made water from Saturday to Tuesday. Excused. MS. Min.; no mention in L.J.]

(*f*)[3] (L. Coventry.) Affidavit of Samuel Cookes, of Crombe Davitot, Worcestershire, Gent., menial servant to Thomas, L. Coventry. His Lordship has been very crazy and infirm in his health, and has not been out of the house for above a fortnight, and but very little for several weeks before, and that in his coach. A journey to London may endanger his life. *Sworn*, at the request of the L. Coventry made by Mr. Cookes, his principal steward, at Worcester, on 1 Dec., before Walter Savage, junr.

(*f*)[4] (L. Coventry.) Affidavit of Hugh Maides, of same place, also a menial servant of L. Coventry, identical with preceding.

(*g*) (D. Bolton.) 23 Nov.—Has so much zeal for the service of his King and country that nothing but his very ill health could have kept him so long from performing his weak but hearty endeavours to serve both. He was let blood today, and is very ill after it. Is by advice to take a vomit or two and something all this week, to enable him to take a London journey, which, God willing, he will begin on the 23rd inst., and go that day to his own house at Hackwood, and the next day to Hampton Court, being unable to go from hence to Hampton Court in one day, and so ill that he dare not lie at an inn. Hopes by these easy journeys to be in the House on the 25th. He cannot come sooner without visible destruction to his health, for his appetite is so little, and his indigestion so very bad, that he cannot digest the least bit of meat. Desires his Lordship to acquaint the House, who, he doubts not, will excuse his coming up two days after the time fixed. *Dated* Abberston, 15 Nov. [Read this day: Ordered to be taken into custody, if not here on the 26th inst. L. J., XVI. 16.]

(*h*) (Bp. Bangor.) 23 Nov. Would readily attend, if he were able. But he has been these two months, and still is, in so bad a state of health, that he cannot attempt, much less hope to perform, such a journey, being 200 long miles of very bad way from London. Hopes the House will pardon his absence, or at least allow him a longer day, till he is able to travel. *Dated* Bangor, 19 Nov. [Read this day: Allowed a week's longer time. L. J., XVI. 16.]

(*i*) (E. Shaftesbury.) 24 Nov. Would willingly have obeyed the summons, were he not prevented by a weakness in his limbs, which for several years past has hindered his stirring from his bed. Hopes this just excuse will obtain for him the pardon of the House. *Dated* St. Giles's, 18 Nov. [Read this day: Excused. L. J., XVI. 17.]

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(*k*) (L. Brooke.) 24 Nov. Is not in a condition to take the journey, having been very much afflicted with the gout above a month, and being still out of order. Will attend as soon as he can travel. *Dated* War., 21 Nov. [Read this day: Excuse not allowed. L. J., XVI. 17.]

(*l*) (L. Maynard.) 24 Nov. Would most certainly attend, were he able to do so. In December last he was suddenly seized with such a sickness at the stomach and heaviness at the head, without having in the least debauched, that his servants had much ado to get him to his house and keep life in him when there; but letting blood gave him some relief. The disease, falling into one of his legs, swelled it to a prodigious bigness, making it like a honeycomb, which, venting vast quantities of humours, saved his life, and one of them still continues and also one broke out in the other leg, not daring to endeavour the healing either of them. Has lately had three or four fits of heaviness in his head, and, being past 73, has little hope of improvement. Prays to be excused attendance. *Dated* Eaton, 21 Nov. [Read this day: Excused. L. J., XVI. 17.]

(*m*) (E. Chesterfield.) 26 Nov. Entreats his Lordship to make his apology, being so afflicted with the gout that he cannot stir out of his chamber. Will not fail to attend as soon as he is better. *Dated* Bretby, 21 Nov. [Read this day: Allowed till 14 Dec. L. J., XVI. 20.]

(*n*) (Bp. St. Asaph.) 26 Nov. Is so crippled with the gout that he has not the use of his limbs, and his physicians have prescribed a course of physic for him, if he may have leave to stay at home and follow it. Entreats his Lordship to intercede for a longer day till he has strength to undergo so hard and hazardous a journey. *Dated* St. Asaph, 22 Nov. [Read this day: Allowed till 21 Dec. L. J., XVI. 20.]

(*o*) (V. Hatton.) 26 Nov. His Lordship's letter only reached him to-day. The fault was not in the general post office, where all due care was taken, but in some country post-master, who are often faulty. Has not been out of his house or chamber for four weeks owing to indisposition. Believes verily that, if he could any way get alive to London, a very short stay would cost him his life. Will send some servants, if necessary, to attest the truth of his statements. *Dated* Kirby, 23 Nov. [Read this day: Excused. L. J., XVI. 20.]

(*p*)[1] (D. Beaufort.) 30 Nov. Sends the enclosed to show how unfit he is to obey their Lordships' command, and hopes thereby to obtain their pardon and excuse. *Dated* Badminton, 25 Nov. [Read this day: Allowed till 10 Dec. L. J., XVI. 24.]

(*p*)[2] Certificate, referred to in preceding, of Dr. Robert Baskervile, of the City of Bristol, physician for several years to the Duke, that his Grace has lately had several severe fits of the stone, so that the journey to London would be hazardous. The continuance of the Bristol waters, without drinking which his fits would have been much more painful and dangerous, is very necessary for him. *Dated* 27 Nov.

(*p*)[3] (D. Beaufort.) 9 Dec. Answer of D. Beaufort to Order sent him on 30 Nov. to attend on 10 Dec. Has received the Order of the House. Did hope their Lordships would not have been so quick in taking away the liberty of one of their members, certified to be in the condition he is, (which being sent for in custody does) upon the failure of a day's appearance. Thinks

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it a great punishment to be debarred from sitting with their Lordships, and thinks it hard to be further punished for undergoing that punishment. Begs their Lordships will not enforce their Order, which if they do, let the consequence of such a journey, if fatal, lie at their doors. Owes more to himself and family than to go willingly, and not protest against what puts him to that apparent hazard, if not of life, at least of great torment, in going such a journey, the ways and weather so extremely bad, and removing from the only physic by which he hoped, and has found, some relief; he means Bristol waters, which he can have at Badminton daily fresh, and which is, and has been for some time, with a little wine, his only drink. Begs the Lord Keeper would represent this to the House, and withal assure them he would be ready to sacrifice his life to do them a real service, but is very unwilling to venture it, and endure so much pain, in order to do them none. Once more begs pardon for not attending, and begs they will supersede the penalty in their last Order. *Dated* Badminton, 5 Dec. [Read this day. Proposed to call in the Duke's witnesses. Nothing done on it. MS. Min.; no entry in L. J.]

(p)[4] (D. Beaufort.) 22 Dec. Certificate of Dr. Robert Baskervile that he is more and more confirmed in the opinion expressed in his first certificate (p)[2] that the journey would be hazardous to his Grace's life, as he declared to Mr. Evison, Deputy Serjeant at Arms, sent down by the House for his Grace. *Dated* 16 Dec. [Read this day. *Tho: Addison* [*Evison*] (sworn) says: I saw his Grace in bed, and he told me he had the stone and had been ill a great while, and that he was so ill he could not ride, and had not been able to ride a great while. He had been only abroad to take the air a great while. *Patricius Roberts:* I saw the Duke last Wednesday. He was ill, and made great complaint he was very ill and spit blood. He has had violent fits of the colic. Consideration of Certificate adjourned to 7 Jan. L. J., XVI. 45; MS. Min. No further entries.]

(q) (E. Huntingdon.) 30 Nov. Has for some weeks been afflicted with such violent pains in the head, for which he is now in a course of physic, that it is impossible for him to undertake the journey. Beseeches their Lordships to accept this excuse, which he makes with much unwillingness. Has forborne to send witnesses or certificates, as his Lordship's letter makes no mention of either. *Dated* Donington, 25 Nov. [Read this day: Allowed till 10 Dec. L. J., XVI. 24.]

(r) (V. Say and Sele.) 2 Dec. Certificate of Ed. Hannes, M.D., that having, as a physician, attended V. Say and Sele from 1 Nov., he thinks his Lordship is in so ill a state of health that a journey to London would bring him into an immediate and most apparent hazard of his life. *Dated* Oxon, 26 Nov. [Read this day. *Launcelot Emmot*, the Serjeant's Deputy, said this day on oath at the Bar that he saw his Lordship in bed. He is very ill and not been out of his bed. He seemed to him not to be able to stir out of his bed. Excused. L. J., XVI. 28; MS. Min.]

(s) (Bp. Carlisle.) 5 Dec. Is unable to obey the Order of the House. Is now entering upon his eighty-third year; and the almost total decay of his eyesight, with other growing infirmities, has for some years past rendered him utterly unfit for travel.

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For over three months has not been able to stir out of doors, or so much as downstairs, much less can it be possible for him to undertake such a journey at this time. Hopes the House will now, as of late years, allow of his excuse. *Dated* Rose Castle, 25 Nov. *Signed* Tho: Carliol (in a very irregular hand). [Read this day: Excused. L. J., XVI. 31.]

(*t*)[1] (E. Bradford.) 8 Dec. Has received a summons by Order of the House to attend there this day. No Lord has given a more constant attendance when able. At this time has a distemper for which he is in a course of physic. Has not been out of his chamber these four days, and, if he should stir abroad in this weather, it would endanger his life. Hopes the House will have compassion for him. *Dated* this day. *Addressed* to E. Bridgwater. [Read this day, together with following certificate: Excused. L. J., XVI. 32, 33; MS. Min.]

(*t*)[2] (E. Bradford.) 8 Dec. Certificate of William Dawes that E. Bradford is now in a course of physic for a dysury, which is so severe upon him that it would be very dangerous for him to go abroad this weather. *Dated* this day. [Read this day. MS. Min.]

1072. Nov. 16. Wade *v.* Heath (In Error).—Petition of Sir Edward Baesh, Knt., and Dame Anne, his wife. Petitioners, in the name of Charles Heath, their lessee, recovered a Verdict and Judgment in Ejectment for the Manor of Battleshall and other lands in Essex, and Anne Wade, the Defendant, in order to delay, has brought a Writ of Error, but has not yet assigned Errors. Pray for a day for her to assign Errors or in default that the Record be remitted. *Signed* Edward Baesh, Anne Baesh. L. J., XVI. 13, almost *in extenso.*

Annexed:—

(*a*) 28 Nov. Petition of same. Petitioner served the Order of the House on the preceding Petition upon Mr. Turner, Anne Wade's attorney, but she has not yet assigned Errors, by which it plainly appears that she only sought delay, she having since brought a Bill in Chancery. Pray the Record may be remitted. *Signed* as preceding. *Endorsed* Ordered that the Record shall be remitted. L. J., XVI. 22, almost *in extenso.*

(*b*) Order on Petition of 16 Nov., appended to preceding. L. J., XVI. 13, *in extenso.*

1073. Nov. 17.—Writ of Summons (V. Weymouth).—Writ of Summons, dated 12 Oct. 1695, to Thomas, V. Weymouth. Took the oaths this day. L. J., XVI. 14.]

1074. Nov. 17. Winchester *v.* Fowke.—Petition and Appeal of Henry Winchester, Gent., and Anne, his wife, one of the grandchildren of James Fowke, Gent., deceased, of Clapham, Surrey. James Fowke, the grandfather, left by will a house in the Old Bailey, occupied by Mr. Hughes, scrivener, and one at Clapham, and much other property, one third to his wife Elizabeth, and two thirds divisible among his three grandchildren, William, James and Anne Gold, the last named being the Appellant Anne, and appointed his wife Elizabeth and Thomas Hunt trustees. Anne has not yet received a groat from the estate, Elizabeth setting up, in opposition to a Bill prepared by Appellants, a Decree in Chancery obtained in collusion with her co-trustee Thomas Hunt, the pretended guardian of the grandchildren. Appeals against the said Decree, and prays

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Elizabeth may be ordered to answer, Thomas Hunt being dead or absconded. *Signed* Henry Winchester, Anne Winchester. *Countersigned* Fran: Atterbury, S. Duncombe. L. J., XVI. 14. [At the hearing, on 26 Jan. 1696–7 *Sir Wm. Williams* and *Mr. Price* appeared for Appellants, and *Sir Tho: Powys* for Respondent. *Sir Wm. Williams* (in reply): The Cause is 3,000*l.* The answer of the infants is no evidence at all. If an infant is not evidence, then what foundation for a Decree? MS. Min. The Appeal was dismissed.]

Annexed:—

(*a*) 1 Dec. Answer of Elizabeth Fowke, Widow. As Respondent's late husband had no children living at the time of his death, Respondent, by the custom of the City of London, became entitled to one half of his whole estate, and the Decree declared that the one third left to her by the will was one third of the residue, which was all the testator could dispose of, and it also adjudged to her the furniture of her chamber, her wearing apparel and jewelry. The grandchildren were not within the custom of the City of London, or thereby entitled to anything of their grandfather's estate. Prays the Appeal may be dismissed with costs. *Signed* Eliza: Fowke. *Countersigned* Wm. Dobyns, Jo: Hungerford. *Endorsed* as brought in this day.

(*b*) 14 Dec. Petition of Appellants for an early day for hearing. L. J., XVI. 38.

1075. Nov. 23. Walcott *v.* The King (Charles II.)—Petition of Isabella Dillon, Widow, Countess of Roscommon, Relict of Wentworth, late Earl of Roscommon. John Walcott obtained a Writ of Error for the reversal of a Judgment against Thomas Walcott, deceased, who had been attainted of High Treason. It is supposed by the Record that John Walcott, son of Thomas, made one Benedict Browne his attorney to prosecute the Writ of Error, but there is no Warrant of Attorney filed. Prays the Cursitors of London and Middlesex may be ordered to make out a Certiorari to the Lord Chief Justice of the King's Bench to certify whether any Warrant of Attorney be upon Record. *Signed* I. Roscommon. L. J., XVI. 16. [At the hearing, on 25 Jan. 1696–7, *Sir Tho: Powys* was heard for the Plaintiff, the Countess: Her estate in Ireland was granted to Lady Roscommon for the good services they did to the King. The first Error is, that they permitted Mr. Walcott to bring a Writ of Error. He assigned the Errors by an attorney, which we think the Court ought not to have done. Cites several cases that a man shall not assign Errors by attorney. They cannot show one case for treason wherein an attorney was suffered to assign Errors. An Act 4 & 5, for more easy reversing outlawries. The second Error is that, if it be allowed, yet the Warrant of Attorney ought to be entered. *Mr. Atwood*, also heard for same, cites cases. 25 Henry VIII., c. 13. *Sir Barth: Shore* and *Mr. Northey* heard for Walcott. MS. Min.—On 29 Jan. the Lord Keeper reported, and after debate the Judges were heard upon the Record, as to the Minutes. *Eyre, J.:* Mr. Tanner gave them account below that Sir Robt. Sawyer struck the words out, as Attorney General. *Proposed* to ask the Judges concerning the not filing a Letter of Attorney, and how or by what law those words, *ipso vivente*, are essential. The Questions put were (1) Whether the omission of the words *ipso vivente* in a Judgment for high treason be Error; (2) Whether it be such a fatal Error as vitiates the Judgment; (3) Whether a Judgment for high treason in which the words *ipso vivente* are omitted does corrupt the blood and forfeit the estate. *Answers* (1) By what I have heard I think the omitting the

1696. — No. 1075. words is Error. I, as Recorder, gave this Judgment upon all the precedents I could find. I think there must be a certain Judgment in this case. Judgments are the voice of the law. (2) I think it does vitiate the Judgment. The omitting these words makes the Judgment reversible. It is a Judgment while it stands, but it may be reversed by a Writ of Error. When the Judgment is reversed, the blood is restored. *L. C. Baron:* (1) It is Error. If it is Error, it will be reversed because it is Error; and, precedents being thus, the Judges cannot vary from it. *Turton, J.* of the same opinion. The case of Stafford in Henry IV. I have seen the Record of that time. Stamford's Pleas of the Crown is in his view. *Powell, J.* of the same opinion. Every Error in a Judgment of high treason is fatal. All Judgments corrupt the blood. If not, *coram non judice*. *Powys, B.* of the same opinion. *Blencoe, B.* of the same opinion. *L. C. Justice C. P.* heard. Repeats the sentence for treason in English. Question put to the Judges, Whether, if a Writ of Error had been brought for want of these words before execution, that would have saved his life? Certainly it would. *L. C. Justice, C. P.* Certainly it would have saved his life. Question put to the Judges, How far the Warrant of Attorney not being filed is Error, or not? The Error read, as assigned on the Record. *L. C. Justice C. P.* I have heard here there never was a Warrant signed. I take it to be the course of the Court, and that is the law of the Court. After debate, the Question for reversal was negatived. Contents 34, Not Contents 35. Tellers L. Ferrers, L. Wharton. MS. Min.]

Annexed:—

(*a*) 30 Nov. Petition of same, who claims the estate of Thomas Walcott under a grant thereof to her late husband. Prays for a short day for John Walcott to join issue or reply. *Signed* I. Roscommon. L. J., XVI. 23.

(*b*) 14 Dec. Petition of same. While John Walcott's Writ of Error was depending in King's Bench, the Court ordered one Mr. Tanner to attend with the original Indictment and original Record, as appears by the Rule of Court annexed (see next paper). Prays for a short day for hearing, and that Mr. Tanner should attend the hearing with the said Indictment and Record. *Signed* I. Roscommon. L. J., XVI. 37–8.

(*c*) Rule of Court of King's Bench for Mr. Tanner to attend with the original Indictment and original Record. [Appended to preceding.]

1076. Nov. 24. Hanham's Estate Act.—Amended Draft* of an Act for vesting the Manor of Holme, alias East Holme and [other lands and tithes] *Swannage in the County of Dorset, part of the Estate* of Sir John Hanham, Baronet, in Trustees to be sold for discharging a mortgage thereupon and *upon the residue of the said Sir John Hanham's Estate, and for* payment of his other debts. The Amendments made in Lords' Committee on 21 Dec. and 14 Jan. (*see* Com. Book) are as follows:—The recital of the Indenture Quadrupartite in the preamble was substituted for a shorter and less explicit one, which omitted that he was seised in fee of the lands settled, and did not enumerate them; East Holme and Swannage were specified in the preamble as the lands hereby enacted to be sold; Dame Jane Hanham, the now wife of Sir John Hanham, was added to the clause making void claims of members of the family to the lands appointed to be sold; in the clause providing how the residue should

* Additions are printed in Italics, omissions in square brackets.

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be dealt with, after payment of the 1,200*l.*, the words "from and after satisfaction of what is and shall grow due to the said Sir Henry St. George, the same do cease determine and be utterly void" were substituted for the words "the same do attend the Estates limited by the settlement aforesaid," and the following words were added, "and that the rest and residue of the Manors, lands and tenements of the said Sir John Hanham not hereby enacted to be sold shall be and enure to the uses and according to the limitations in the said settlement comprised", which, on recommitment, were replaced by the succeeding clause in the Roll.* There were a few other Amendments, purely formal, made in the Lords' Committee and by the Commons. [Read 1ª this day, 2ª and committed on 30 Nov., and recommitted on 7 Jan. 1696–7, after some debate. Royal Assent, 29 Jan. L. J., XVI. 17, 18, 23, 49, 86. 8 & 9 Will. III. c. 9 in Long Cal. *See also* Com. Book, Dec. 3, 14, 21; Jan. 12, 14, 15.]

Annexed:—

(*a*) 14 Dec. Paper of Lords' Amendments made in Select Committee, on commitment and on re-commitment, on this and subsequent dates. They are described above.

(*b*) 12 Jan. 1696–7. A particular of Sir John Hanham's Estate that is to continue chargeable with 400*l.* per annum to my Lady and to Sir John Hanham and his issue. Amounts to rental of 581*l.* 4*s.* 8*d.* The Estate desired to be sold is East Holme and Swanage, which will yield 1,745*l.* 6*s.* The principal debts by mortgage and by bond contracted by Sir John amount to 2,113*l.*, which will leave 368*l.* to be paid, together with other debts, by Sir John out of the Estate limited to him. [Ordered to be prepared on 3 Dec., and produced this day. Com. Book.]

(*c*) 12 Jan. An account of Sir John Hanham's debts. There is due to Sir Henry St. George, by mortgage, 1,200*l.*; to various people, by bonds, 913*l.* 18*s.* 4*d.*; to various people, book debts, 472*l.*; total 2,585*l.* 18*s.* 4*d.* The Estate desired to be sold will fetch, at the outside, 1,745*l.* 6*s.*, out of which the mortgage is to be first paid, the rest after the charges of the Act to be paid, the deficit to be made up out of yearly profits. [Ordered to be prepared on 3 Dec., and produced this day. Com. Book.]

1077. Nov. 24. Writ of Summons (L. Poulett).—Writ of Summons to John, Lord Poulett. *Dated* 31 Oct. 1696. [Sat first in Parliament this day. L. J., XVI. 17.]

1078. Nov. 25. Browne *v.* Dashwood.—Petition and Appeal of John Browne and Thomas Saudes against Sir Robert Dashwood, John Perry, Esqre., Sir Samuel Dashwood and Edward Noell, executors of George Dashwood, Esqre., deceased, Edward Buckley and others. John Hind, late of London, goldsmith, being concerned with the Respondents in the farm of the Duty arising from Hearth Money, it was agreed that Hind should have access constantly to the books of account, and that the account should be audited once a year. Hind, being in difficulties, was prevailed upon by the Respondents, the farmers of the Duty, to transfer his interest in the farm to the said George Dashwood for 24,000*l.*, and Hind afterwards demanded an account of the farm and a sight of the books, which was denied him by the farmers unless he would give them a General Release on payment

* This Clause was drawn up after consultation with C. J. Holt, who said that Sir John Hanham's settlement having been voluntary, the Estate was liable to all debts contracted before or after the same, after Sir Henry St. George's mortgage was satisfied, as much as if such settlement had never been made. Com. Book, Jan. 12, 14, 15.

1696. — No. 1078. of 32,000*l.* more, which they affirmed was all that was due to him. Hind, being then under great pressure, accepted this offer, but afterwards discovered that there was due to him at least 15,000*l.* more, besides a dividend of 1,514*l.* 8*s.* 7*d.* which had been concealed from him. He accordingly exhibited his Bill in Chancery, but before the hearing he became insolvent, and a Commission of Bankrupt was awarded against him, the Appellants being Assignees of the said Commission. Hind then died, and the Appellants brought a Bill of Revivor, which was dismissed by the late Mr. Justice Giles Eyre. Appellants then obtained several Orders for a rehearing, which were defeated by the enrollment of the Dismission. Appeal against the Dismission. *Signed* John Browne, Thomas Sandes. *Countersigned* Tho: Powys, P. Bowes. L. J., XVI. 38. [At the hearing, on 14 Dec., *Sir Wm. Whitelocke* and *Sir Tho: Powys* appeared for Appellants, and for Respondents it was contended by *Mr. Finch* and *Sir Barth: Shore* that there was no fraud proved in the obtaining of the Release. MS. Min. The Appeal was dismissed. L. J., XVI. 38.]

Annexed:—

(*a*) 5 Dec. Joint and Several Answer of Sir Robert Dashwood, Knt. and Bart., Sir Samuel Dashwood, Knt., John Pery and Edward Noell, Esqres., and Edward Buckley, Gent. The Hearth Money was farmed for five years from 1674 by John Hind and Thomas Kirwood, late of London, goldsmiths, now deceased, together with Abram Anselme and Edward Buckley, now also deceased, and with John Pery. The dismission was just. Pray the Appeal may be dismissed with costs. *Signed* Robert Dashwood, Edwd. Buckley, Edw: Noell, Sam: Dashwood, John Pery. *Endorsed* as brought in this day.

1079. Nov. 25. Wethered *v.* Roberts (In Error).—Writ of Error and transcript of Record relating to the alleged detention by Thomas Wethered of certain oil and wine from Genoa belonging to Francis Roberts. *Parchment Collection.* [Brought in this day. (L. J., XVI. 18). No further proceedings.]

1080. Nov. 26. William Fuller (Jacobite Plots).—Letter from William Fuller to the Lord Keeper, Sir John Somers, dated this day, as follows:—My Lord, The artifices of the French Court, and the immaturity of my own judgment, have so exposed me to the displeasure of the House of Commons, and consequently to the severe censure of all good men, that I hope the Right Honourable the House of Lords will pardon me for presuming to trouble them, and be graciously pleased to receive my humble petition, which I have, with this, enclosed to your Lordship, begging that it may be speedily presented.

My Lord, all I beg is justice, and that without favour, which I hope will show the integrity of my cause, and the intolerable wrongs I have so long groaned under; and, until that be done, I cannot presume to appeal to the King for any mercy or favour, therefore humbly fling myself on the great wisdom of the Parliament, mine being a case that concerns the present as well as the future interest of the King and Government.

My Lord, I am not now, nor ever was, fond of being an evidence, only for his Majesty's service, but, forasmuch as I did formerly charge Sir John Fenwick that I had brought and delivered to him several letters from the late king James, his Queen and others, as also a Commission, that I had likewise carried letters from Sir John Fenwick

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to the latter King and Queen at St. Germains, and that I was once in company with the said Sir John Fenwick and three others, when they signed an address to the French King, my Lord, this I am ready to prove, if their Lordships think fit to hear me.

I am,
My Lord,
Your Lordship's most dutiful Servant,
Will. Fuller.

To the Rt. Honble. Sir John Somers,
Lord Keeper of the Great Seal of England, &c.

[Not noticed in Records. *See also* No. 1081.]

Annexed :—

(*a*) 26 Nov. Petition of William Fuller to the two Houses, as follows : The humble Petition of William Fuller sheweth That your Petitioner hath long groaned under intolerable misfortunes, occasioned through the immaturity of his judgment, which was too easily imposed on by the perfidiousness of Col. Thomas Deleval and Mr. George Hayes, for whose appearance your petitioner engaged to the Honourable House of Commons (intentionally for the Nation's service, though the event proved contrary), and for their failure incurred the displeasure of the same. Your petitioner humbly presumes that most in the House of Commons were present when his information was read, as also the Lord Preston's and Mr. Crone's confessions, which did both confirm what your petitioner affirmed ; particularly Mr. Crone asserts it upon oath. Your petitioner submissively flings himself on the justice and wisdom of both Houses, now assembled in Parliament, humbly conceiving that he can have no redress from the wrongs he suffers but by your wise examination of the whole management of the affair into which your petitioner was so cunningly ensnared by the artifices of the French Court and their private adherents in this kingdom, by whose subtle device the Honourable House of Commons (as well as your petitioner) was abused, it being at that time the greatest design and for the interest of the French Court and their friends in England, to stifle whatever discovery should be then made, for, the April following, they purposed an invasion, and accordingly provided all necessary provisions at La Hogue, &c. And, forasmuch as your petitioner can plainly prove that Deleval and Hayes did come over, and the method of their whole intrigue in this base design, in which they had great assistance in this kingdom, as also the manner of their going off, your petitioner, with entire submission, most heartily wishes, for the Nation's present as well as future security, that of your great wisdom you shall examine into the management of the whole intrigue, which cost the French Court so much pains and money. By this inspection it will be plainly proved who they are that have so long betrayed, and part of them yet continue to betray, his present Majesty's Council and this kingdom in general. That your petitioner was the first who discovered to king William Colonel Parker and Chevalier Granvil's design of assassinating his most sacred Majesty your petitioner can fully prove, and that his former informations were a true narrative even of the last intended invasion and conspiracy in most particulars. And that those former and these latter designs were much alike managed by the same conspiring hands and hearts will plainly appear, on the perusal of the said information. Your petitioner after all this has been reduced to the most extreme miseries,

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and suffered public disgrace, occasioned by others' villanies, and has also been exposed to several hard shifts and extremities. Your petitioner therefore humbly prays that, for the Nation's good as well as for his vindication from the intolerable injuries your said petitioner has so long groaned under, he your petitioner may have some redress by your mature consideration of his unhappy case, that justice and truth may appear on every side, and that such necessary provision may be made for your petitioner, who left his friends, interest and employ in France to serve this present government, as to your highly judicious wisdoms shall seem expedient. Your petitioner further prays that he may have leave to publish a full and perfect account of all he knows relating to the former conspiracies against the present government.

And your petitioner, as in duty bound, shall ever pray, &c.

(*Signed*) Will. Fuller.

1081. Nov. 26. Sir John Fenwick's Attainder.—Papers connected with Sir John Fenwick's Attainder. [The Bill to attaint Sir John was brought from the Commons this day. L. J., XVI. 19. Such entries in MS. Min. as are not printed *in extenso* in the Journal, with the exception of those connected with particular papers, which are appended as notes to the papers below, are here set out, together with the notes of the evidence which are not included in the epitome of examinations printed in L. J., XVI. 60–72, some light being thrown on the evidence by the questions put.]

On 1 Dec. *Sir John Fenwick*, on being asked whether the first of the Papers shown him (Paper *c* below) was his own handwriting, answered, He must be careful of his preservation. He prays to be heard by his Counsel against the Bill, and have Counsel and a Solicitor to assist him. He was told that if he was disposed to make a full and ingenuous confession of all things in those Papers, and that you constrain yourself to what you can prove or make out. *Sir John:* I humbly pray I may be heard by my Counsel and Solicitor to come to me in private. *Asked* if this was all he had to say, he said it was. . . . *Proposed* to send for Sir John in again, and told that the House will not deny him to be heard by Counsel; but that he be ingenuous to answer the truth of what he knows in this matter, and that he alone can speak to matter of fact. *Sir John Fenwick* was called in again, and the L. Keeper told him as above. *Sir John:* I have given what answer I can give in this matter. I desire Counsel . . . *Sir John Fenwick* was called in and ordered to name his Counsel. He named Sir Tho: Powys, and Sir Barth: Shore, and Mr. Dighton to be his Solicitor; and desired that Sir Francis Pemberton might come to him.

On 8 Dec., after the Message to the Commons as to Lord Cutts and Mr. Vernon, the Order was made for witnesses on either side to be produced. *Counsel* for Sir John Fenwick says there was such an Order left with the Solicitor. *Mr. Dighton*, Solicitor, heard: He informed Sir John Fenwick and Counsel of it. Counsel asked if he intended to examine witnesses. *Sir Tho: Powys* says: We thought we should be heard against the Bill. We hope to be heard against the Bill. We have not our witnesses this day. We come to speak to the Bill itself. *Sir Barth: Shore:* We come to argue against the Bill, but, if your Lordships go into examination of the fact, we are not prepared. *Counsel for the Bill* say it is their fault if they have not counsel for the Bill [*sic*], they owning they had notice

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of the Order, and might have brought witnesses (see Paper *d* below).

On 9 Dec., upon reading Lady Mary Fenwick's Petition (Paper *e* below), *Ordered* That she may be with her husband Sir John Fenwick in the Prison of Newgate, as desired. . . . . A debate arose whether these words be added to the said Order, ("so as she continue a prisoner with him"). The *Question* was put whether the House shall be now adjourned. It was resolved in the *Negative*. Then the *Question* was put whether the words should be added, and resolved in the *Affirmative*.

On 15 Dec. Counsel for the Bill proceeded. *Serjeant Wright* says the Bill charges him, and that he declared he would make a full discovery; and for his not doing this he is attainted by the Bill. We prove the Prisoner guilty of this treason, which leads me to give you a little account of the Plot. We hope this method is proper. *Mr. Pratt* heard also against the Prisoner: This is a trial by the whole body of England, the Commons and your Lordships and His Majesty. He has all advantage imaginable to be tried before this House. *Capt. Geo: Porter* (sworn): In May we had two meetings. At these two the E. Ailesbury, Sir J. Fenwick and others were present. We agreed to send Charnock to K. James. *Counsel against the Bill* asked Porter several questions, and *Counsel for the Bill* asked Porter what he was offered to withdraw. *Counsel* heard to argue whether Porter shall be heard as to what he was offered to take off his evidence—by any person—Mr. Clansey. After debate whether Porter shall be heard as to what Clansey said to him about his withdrawing, *proposed* to ask the Judges, Whether or no, if Mr. Porter should be brought as a witness in Westminster Hall, and he gave an account of any tampering with him by any other body, not Sir John Fenwick himself, whether that will be admitted as evidence against Sir John Fenwick. *Question*, Whether the Judges in Westminster Hall would not hear this evidence, as opened by the Counsel at the Bar. Then *Question stated* to the Judges as in L. J., XVI. 39. *L. C. J. King's Bench:* Porter might answer if he will, or not. If he does say the Lady Mary Fenwick or any other person has tampered with him, whether he shall be heard, to say what one man did in relation to another, I cannot say it is evidence. I should tell the Jury it is not evidence. As to this, if it is to Mr. Porter's integrity, I must hear him. *L. C. J. Common Pleas:* This is two questions in one. It was objected by Sir J. Fenwick's Counsel whether rewards received. Other Counsel asked if he had received any other reward. When any objection to the credit of a witness, it is fair the other side should cross-examine him. He ought to be heard. (2) Suppose he had been offered any reward by the Lady M. Fenwick, she (?) ought to be heard. If this stand alone, it will not affect the Prisoner. It may be received as evidence, but not conclusive to Sir J. Fenwick; but there may be evidence after fixed to it, as may make it conclusive. It may be heard as evidence. *All the other Judges* of the same opinion—L. C. Baron, Justices Powell, Turton, Baron Blenco, Justices Nevill, Eyre, Baron Powys. Sir John Fenwick was brought to the Bar and Counsel called in, and Counsel for the Bill were told that they are to proceed where they left off. *Capt. Porter* was called in, and went on as to the taking off his testimony: Mr. Clansey told me that I should have K. James' pardon if I would withdraw. I went to Mr. Vernon and acquainted him with it. He afterwards acquainted me that the King ordered I should proceed, and I should have 300 guineas. He told me he came from Sir John Fenwick, and he brought me a letter to recommend

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me to K. James. The Lady Fenwick, the night before I was to go away, she came to me to the Tavern, and assured me that what Clansey had promised should be done. I received 300 guineas. *Asked*, Whether he knew Clansey came from Sir J. Fenwick, says Mr. Clansey told me so, and the Lady affirmed it to me. *Mr. Row* (sworn) says he met Mr. Dighton in the Temple. Says he, "I am glad to see you. I desire to see you in the evening." Says D., "I know it is in your power to do Sir J. Fenwick a kindness. If you will say anything to discredit Goodman's testimony, you shall have 100*l.* a year, as your friend shall advise." I told Mr. Goodman what Dighton said. I went with G. to Whitehall, and I told to the L. Abp. what Dighton said. Mr. Dighton said I should have 100*l.* per annum, as any friend should advise. Mr. D. told me Mr. Goodman had lost his credit by being evidence, and the Duchess's business—"and if you can discredit him you shall be rewarded above this 100*l.* by Sir J. Fenwick" &c. I dined with Mr. Goodman. About 3 or 4 o'clock there came a hackney coach. Mr. Goodman was told one would speak with him. I saw Mr. Goodman concerned. He went down, and after that I saw him no more. The person looked out of the coach I know not. *Counsel for the Bill* called for Mr. Goodman's Information taken by Mr. Vernon upon oath. *Counsel for Sir John* object against the reading this Information: We insist there is no case in civil causes where this can be allowed of, much more in capital. L. J. Hale cited, 5 Edw. VI. and 6 Edw. VI., when an Information before a Justice may be used. Case of Harrison, Gloucestershire, where the persons were executed for murder, and the murdered returned. *Sir Barth. Shore* (heard for Prisoner): In this manner truth is never to be discovered. We cannot cross-examine. We stand on a Bill. We say the oaths are different here and before a Justice of Peace. We receive a double disadvantage if this be read. It was done in Sir Walter Raleigh's case. We insist on the rules of right for Sir John Fenwick. We hope you will think this evidence ought not to be read. 5 & 6 Edw. [VI.] c. II., the last paragraph but one read. *Mr. Serjt. Wright* (heard as to the reading this evidence of Goodman): This is an evidence in law, I hope. The practice is against them. Cites Hale's Pleas of Crown, that the Information may be read if the witness die, or [be] absent. I agree the Statute Edw. VI. is as opened. There needs but one witness as to coin. These Acts were made to regulate inferior jurisdictions. You are above it. Cites the last of Trials. If he had not sworn so much, they would have had it read. Who sent Goodman out of the way? They themselves. *Mr. Pratt:* Firstly, this is necessary evidence. We cannot give other in this case. We prove Goodman withdrawn. Goodman being withdrawn, it is impossible to have him here. Then, without this, how shall we prove the allegations in the Bill. Secondly, this is legal evidence. It is not legal in a civil cause. This case is different. What way has the King to preserve his evidence. This Information is taken by a Justice, and that is legal, and it is necessary the King may use his deposition. At Common Law a deposition of a witness is allowed to be good. In Sir Walter Raleigh's case it was allowed. He was a master of reason, and he allowed good if gone out of the way. Ld. Mayor Wyatt indicted for high treason. One of the witnesses was in Ireland. His deposition was taken by Je. Bacon, and allowed to be good. This would have been good upon an Impeachment. *Sir Tho: Powys* heard in reply to this reading Goodman's evidence. *Counsel for the Bill* also heard in reply to their reply. *Sir Tho: Powys* heard again. Counsel withdrew. House *moved* to read Goodman's deposition taken by Mr. Vernon. After debate, the

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Question was put, Whether the Information of Goodman, taken before Mr. Vernon, shall be read? It was resolved in the *Affirmative*. Contents 73, Not-Contents 53, E. Feversham* and E. Scarbrough Tellers. E. Bradford, E. Burlington, E. Berkeley, E. Fauconberg, L. Morley and L. Crewe had leave to withdraw. Sir John Fenwick being brought to the Bar, and Counsel called in again, Counsel for Bill were told that Mr. Goodman's Information might be read. *Mr. Vernon* was sworn. *Asked*, what he knew of that Information, he said it was Mr. Goodman's Information, written by him, and sworn to also. Mr. Goodman was heard before the Lords Justices, and he put what he said in writing. Then the Information was read by *Mr. Baker*, Solicitor, at the Bar. Counsel for the Bill heard to this Information. The Indictment before Grand Jury read. *Counsel for the Bill* propose to hear the gentlemen of the Grand Jury as to what evidence they found the Bill on. *Sir Tho: Powys* opposes it for the Prisoner. *Serjt. Wright* heard to this hearing of the Grand Jurymen. *Mr. Pratt* heard also. *Sir Tho:* heard in reply. Sir John Fenwick being taken from the Bar, Counsel withdrew. It was *moved* that the gentlemen of the Grand Jury might be examined as to what Goodman said before them. *Agreed to.* Sir John Fenwick being brought to the Bar, and Counsel called in again, the Counsel for the Bill were told that they might go on to examine the gentlemen of the Grand Jury. *Bartholomew Gracedieu* (sworn) says he was of the Grand Jury that found the Bill against the Prisoner. The persons that gave evidence were Porter and Goodman. Goodman gave account of a meeting with Sir John Fenwick, where there was agreement to go to King James, and that Char[nock] would not go without a quota of each person, what they would raise. There was only the L. Montgomery and Sir John Fenwick in the Indictment. *John Reade* (sworn) says he was of the Jury that found the Bill. Goodman said he was at the King's Head, where Sir John Fenwick was and the L. Montgomery, and they would raise horse &c. *John Meade* (sworn): Capt. Porter and Goodman gave evidence to us that the L. Montgomery and Sir John Fenwick were at the meeting &c. *Serjt. Wright* proposes to read the evidence of the conviction at Cooke's trial. This was opposed by *Sir Tho: Powys* and *Sir Barth: Shore*. *Serjt. Wright* heard in reply. *Mr. Pratt* heard also. *Sir Barth: Shore* heard also. Sir John Fenwick being taken from the Bar and Counsel withdrawn, it was *proposed* to hear the evidence that was given at Peter Cooke's trial. After debate hereupon, the *question* was put, Whether this debate shall be now adjourned? It was resolved in the *Affirmative*, Tellers L. Great Chamberlain, E. Rivers. [Contents and Not-Contents left blank.] Yielded without telling, though withdrawn. *Ordered* That the debate shall be adjourned to tomorrow, 12 o'clock.

On 16 Dec. The Duke of Devonshire having the day before been ordered into custody for being absent (L. J., XVI. 40.), the House was informed that the Duke of Devonshire is here to attend this House, and is sorry for his having fallen under the displeasure of this House, is very sorry for the same. It is ordered that he be discharged. (No entry in L. J.) After the House had been called, and E. Rochford and Bp. Bangor excused, E. Bradford was given leave to withdraw when he pleases. *Ordered* That the Lords now absent and not excused shall be taken into custody if not here by two o'clock. After Fenwick's Petition that Clansey, a prisoner in Newgate, might give evidence (Paper *f* below) had been read, Counsel withdrew.

* E. Feversham appears among the Lords protesting. L. J., XVI. 40.

1696. — No. 1081. *Proposed* to know of the Judges for what Clansey stands convicted. *Justice Eyre* says, for endeavouring to persuade the King's witness not to give evidence. *Proposed* to ask the Judges whether Clansey may be a witness in any other case. *Mr. Justice Eyre* says as before, it was a great misdemeanour. *Proposed* to ask the Judges whether this [is the] Mr. Clansey who has stood in the pillory, and is convicted of a misdemeanour. *L. C. J. King's Bench:* I cannot give my opinion unless I see the Record. *Ordered* That the Record of Mr. Clansey's conviction be sent for—which was brought in. *Ordered* that Clansey be sent for. Sir John and Counsel called in, and Counsel for the Bill told they may go on. They called *Henry Sherbrooke*, who was sworn, and declared what evidence Goodman gave at Cooke's trial. *James Gibson* (sworn) gives account of the apprehending Sir John Fenwick. *Mr. Vernon* (sworn) was heard as to the putting off the trial, and upon what account. *Mr. Baker* (sworn): On the 3rd July last I had order to give Sir John notice of his trial, which I did accordingly. The Sessions was adjourned from time to time. *Mr. Serjt. Wright* desires the letter written by Sir John Fenwick to his Lady. The Lord Keeper sent it to the Bar. We will prove the delivery of this letter by Webber. *John Fowle* (sworn) gives account of the letter. Webber was rising when I came to him, and Webber gave me the letter. I put it in my pocket, and while there I was sent to by a Justice, who told me he heard I had received a letter. Sir John was in the room when I received the letter. I was directed to deliver it at the Countess of Carlisle's to Mrs. Farrer. *Mr. Vernon* looks on the letter, and gives an account of the letter, and how it comes to the Lords Justices. Mr. Vernon's proceeding in this matter is opposed by *Sir John's Counsel*. *Mr. Baker* heard as to the letter and Mr. Webber's being withdrawn. Mr. Bowes told me Webber had advised with his Counsel, and it was not fit for him to appear at the House of Commons. *Robt. Stephens* (sworn) gives account that he could not find Webber, and that he was out of the way. *Agreed* to go on. *Mr. Vernon* gives an account of Webber's receiving the letter from Sir John Fenwick. That he did not know the contents of the letter. *Mr. Baker* heard as to offering to read the letter in the House of Commons. *Sir Tho: Powys* cites Algernon Sidney's Reversal. The reading the letter being opposed by *Sir John's Counsel*, the other Counsel was heard to it. The letter was read at the Bar. It is directed for your Lady. *Mr. Serjt. Wright:* We that are for the Bill have done our evidence. *The Counsel against the Bill* desire that all may be said for the Bill they can now. Counsel withdrew. *Ordered* that E. Berkeley have leave to withdraw. Adjourned during pleasure, and candles ordered. House resumed. House *moved* to hear the Judges upon the Record concerning Mr. Clansey. *L. C. J. King's Bench* heard: We read over the Record in the King's Bench, and it is for the offence mentioned in the Record. He was to give Porter 300*l.*, and did, and 300*l.* per annum if he went to France. First, whether he can be a witness for Sir John, or in any case, we are all clear he cannot be a witness in this matter. Secondly, as to the standing in the pillory, seven of the eight are very clear he ought to be no witness in any case. *L. C. J. Holt* said, as yet he was the dissenting Judge, and desired time to consider of it. *L. C. J. Common Pleas* heard: Whether a witness in any other case he cannot. This case renders him incapable, as I take it. *Moved* to hear the L. Chief Justice of King's Bench as to his doubts. I can subscribe to my brothers' opinion, but doubt as to myself. I admitted Aaron Smith upon his being pardoned, in Crosby's trial. (Clansey remanded, and Counsel for Prisoner to go

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on, as in L. J.) *Sir Tho: Powys* proceeds for the Prisoner, and was heard: The Gentlemen of the other side make use of an argument that will fail them; and offered to surrender himself if they would be bail for him. One is the D. of Norfolk, the other the E. of Carlisle. We come to offer reasons against exerting your power in this case. One thing I lay down is that the person thus to be attainted is forthcoming to be tried in the ordinary Courts of Justice. The Bill takes notice he might have been tried. He was arraigned, and issue joined, and nothing wanting but evidence. Dangerous that subsequent laws reach precedent actions. He cites several cases, and the E. Strafford. Greater evidence is necessary here, more than in other Courts. Your Lordships are to pronounce death, which is a dismal thing. For the evidence, it is extraordinary. The reading that they call an examination, it is nothing. Mr. Vernon did not so much as examine this person, but took what was brought to him. It is a general account, without time or place. The next thing was the Grand Jurymen. This was never allowed before. The three men were different. I will give account of our evidence. First, we resort to the credit of the witnesses. Mr. Porter and Goodman are persons of as ill characters, guilty of as notorious crimes, as any in our age. *Sir Barth: Shore* heard for the Prisoner: First, whether this Bill as it is, taking all to be true, whether it be agreeable to the laws of England, whether this is agreeable to *suprema lex;* whether the Peerage does not shake at this Bill. We are deprived from taking exception to the indictment. They proceed to their evidence . . . . . *Counsel for the Prisoner* desires the witnesses may be sworn for the prisoner. A *debate* arose whether the House shall now proceed to hear the witnesses for the prisoner. *Ordered* That the House shall proceed in the further consideration of this business tomorrow . . . . House called over.

On 17 Dec., on the House being called over, *ordered* that the Lords now absent shall be taken into custody if not present by one oclock. House *moved*, on behalf of Counsel for the Bill, that they may have a sight of the papers in the L. Keeper's custody. *Agreed* one of the Judges to carry the papers to the Counsel and let them peruse them, and then return them to the L. Keeper. Sir John Fenwick being brought to the Bar and Counsel called in, *Counsel for the Bill* desires Mr. Needler and Mr. Blaney to attend. Agreed. *Moved* that they may have a sight of the papers in the L. Keeper's custody, to which the House agreed, that either side may see the Papers. Then Sir John's Counsel proceeded to call their witnesses. *Mr. Cock* (sworn) heard as to the meeting, at his house, of Sir John and others. He names the persons present, eight, and that he did not see Goodman there, at the King's Head in Leadenhall Street. *Christopher Crawford* (sworn) examined as to Goodman's being at his master's house. *Wm. Huntley* (sworn) examined as to the meeting at the Tavern. *Richard Livesey* (sworn) E. Aylesbury's servant: I observedthem at dinner; and he names the eight persons present; and heard as to what time they came thither, about half after one, and went away about four. I knew Goodman seven years. Goodman was not there. *Edward Burdell* (sworn): My Lord Montgomery came to Gray's Inn soon after four oclock, and said he had dined in the City with Sir John Fenwick, Sir John Friend and others. He did not know he came to meet the Lady Wentworth. They read out of the printed trial what Porter swore at Cooke's trial. Trial licensed by the L. C. J. Holt. *Tho: Fowke* (sworn): Capt. Porter was committed 4 July 1695, and discharged 7 Sept. following. They read the Record of

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Porter's killing Hackett. Agreed he was convicted of manslaughter in King Charles II.'s time, 26. *Elizabeth Keyes* (sworn) gives account what Mr. Porter said to her of his making his fort[un]e (At one oclock, the Order issued for taking E. Radnor into custody) by being a witness. He said honest to us, Stand to the principle. If you stand fast, I will bring you off, and take care of your family; and after said, I will bring her off. *Jane Cranborne* (sworn): Mr. Porter sent a letter to me out of Newgate, and I went to Newgate. Mr. Porter told me I had sent to him about your husband's life. I asked him how I should be assured of his life. He said, I shall live better than ever, I shall have a great reward. I know not the Keeper. They told me his name was Cooke. We have done, said *Sir John's Counsel*, as to Mr. Porter's credit. They read a Record concerning the poisoning the D. of Grafton by Goodman. *Edmond Godfrey* (sworn) heard as to Goodman's stopping him in 80 to rob him, and they fired at each other. A minister came to me and told it was Goodman. I wrote to Mr. Callow about it. I saw him in the playhouse after acting. Goodman said I have robbed a thousand times, but never had a bullet shot at me before. *Mrs. Anne Crosse* (sworn): Agoing to Salisbury Mr. Goodman robbed me. He owned it to me. *Geo: Marsh* (sworn): I know Mr. Goodman, and he called himself God the Holy Ghost, the other God the Father and God the Son, and drank such healths, and called to Lusay to stir the fire; and then one said, Here is the devil's health, which Goodman drank, and called his wife the Virgin Mary. The one was O'Brien, who is gone with him. This was about three years since. He lived with the Lady Duchess when he heard this. I live with Mr. Lucas at Clapham. *Admitted* Goodman did rob. *Sir John's Counsel* say they have done, and leave it here. *Counsel for the Bill* proceeded to call witnesses to disprove some things alleged in the printed trial read by the Counsel on either side. *Blaney* (sworn) says he took notes at the trials of Sir John Friend, Sir Wm. Perkins and Mr. Cooke. Mr. Porter in all the three trials. Mr. Porter says it was three or four days after he came out of prison from the riot in Drury Lane. I can say by my notes; they all agree. My notes all agree in the three trials. *Mr. Culverwell Needler* (sworn): My notes say, Three or four days after I was out of prison on the riot. *Moved* to hear L. C. Justice and Judges at the trials in this case. Witnesses called to prove Goodman has dined at the Tavern in Leadenhall Street. *Mr. Munday* (sworn): I dined with Mr. Goodman at this house about Michaelmas twelvemonth. I found Goodman at Jonathan's Coffeehouse, and Sir John Friend was there and invited us to dinner at the King's Head, Leadenhall Street. We were there. We had attendance as usual. *Mr. Row* (sworn): I used to receive directions from Mr. Goodman about the Lady Duchess' business. Mr. Goodman said he was to dine at the King's Head, and if I would call in the evening I should find him there. Goodman has told me he was glad I did not come. *Counsel for the Bill* say they have gone through their evidence, and that they have fully proved Sir John guilty of what the Bill charges on him; and then proceed to cite precedents and not to sum up evidence. The precedents cited by Serjt. Wright are as follows:

3 Hen. VII., Rolls. John Spinall and 80 others attainted. Here was no trial at all for the riot.

12 Hen. VII., ch. 7, Rast. 377. Clergy was taken away from James Grimes.

22 Hen. VIII., ch. 9, Rast. 476. This Act recites Richard Rouse poisoned the Bishop's servants. Two died. This was judged High Treason, and [he was] boiled to death.

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Queen Catherine Howard, 33 Hen. VIII., 21.751, with the Countess Bridgwater.

Sir Tho: Seymour, Ld. Admiral, 2 & 3 Edw. VI., Rastall, fol. 903.

2 & 3 Philip & Mary, Benedict Smith.

25 Hen. VIII., No. 26, Wolf's wife attainted for murder.

26 Hen. VIII., No. 22, Sir Tho: Moore.

eodem anno, Bp. Rochester.

eodem anno, No. 24, Tho: Fitzgerald et al.

27 Hen. VIII., No. 36, Jo: Lewis for murder [of] his keepers. His hands struck off.

28 Hen. VIII., No. 49, James Fitzgerald. No proceedings against him but in Parliament.

25 Hen. VIII., No. 51, Howard, D. Norfolk's brother. An Act of Attainder for an offence not then Treason. No proceedings in any Court but in Parliament.

32 Hen. VIII., No. 52, E. Essex.

28 Hen. VIII., No. 56, Giles Heron.

22 Hen. VIII., No. , Featherston and Terrell.

33 Hen. VIII., No. 38, Richard Pate, Archdeacon of Lincoln and Holland, indicted according to law, and yet no further proceeding, but convicted in Parliament.

3 Edw. VI., No. 28, Wm. West, for poisoning the L. La Warr, his uncle. The offence unusual; the punishment extraordinary.

3 Jac. 1, Guy Faux et al., Gunpowder Treason.

17 Car. II., Bampfield, Scott, Doleman.

and 1685, Jac. II., D. Monmouth.

Replication.—*Sir Tho: Powys*, Counsel for Sir John, heard to the Attainders before cited: I owned there were instances of Attainders. The conspirators in the Gunpowder Treason and King Charles' murder were tried, if they were found. *Sir Barth: Shore* heard also in reply to the precedents: There is not an Attainder to supply the want of evidence, who has joined issue with the King. *Serjt. Wright* heard to the precedents they cited yesterday, and strengthen them before recited. Roger Mortimer, 4 Edw. III., 2 Hen. VI., E. Essex, E. Strafford, Car., cited last night by the Counsel on the other side. He reads Mortimer's case out of the book. 28 Edw. III., the Attainder reversed. Tho: Cromwell, E. Essex was cited last night. E. Strafford's Attainder. He was accused of crimes, not treason. *Sir Tho: Powys* heard in reply to what Serjt. Wright said. . . . . *Mr. Serjt. Wright* heard to proceed to sum up the evidence: Porter was the first, who proves the consultation in Leadenhall Street. He tells you how Goodman was introduced, and how they agreed to send Charnock to King James. Mr. Charnock agreed to undertake the journey. That there was a second meeting at Mrs. Montjoy's Tavern. Most of the conspirators present. All that met agreed, and the prisoner was there, and agreed to his quota of horse. Mr. Goodman examined before a Justice and at Mr. Cook's trial, and he gave in his paper account of several conspiracies, and of this. They object this not legal, as to the certainty of time and place. It was after the King went into Flanders, though not ascertained to the time. At the Grand Jury and Cooke's trial he swears the same as Porter. They both say what evidence Goodman gave. The Grand Jurymen say the evidence he gave was the same as alleged. Mr. Sherbrooke at Cooke's trial gave a punctual account of the meeting at the King's Head Tavern. We have produced the letter in black lead, and the manner of it being to be delivered. Mr. Porter's account of Clansey's proceedings with him as to his withdrawing. And he

1696. — No. 1081. went through the whole evidence on either side. *Mr. Pratt*, on the same side, heard: Parliaments have an absolute unlimited power even of our lives. As to this power of attainting, Parliaments are not limited, and they are the only and proper judges. That it is necessary for the Parliament to exercise their power now, in times of foreign invasions. Mr. Pratt being sick at the Bar, *Mr. Sergt. Wright* went on with what he was to say. *Sir Tho. Powys* heard in reply to the summing up the evidence: There is not so much as an allegation of the Bill that Goodman withdrew any way on Sir John Fenwick's account. If there are ways to proceed against Sir John, it may be against others. *Sir Barth. Shore*: We come not here to arraign the witnesses in other causes. We are for the Prisoner. We will prove there is no treason in the indictment. Consider how far this may go. Consider what is in the indictment. Here is no arms, no horse, bought; only a discourse between eight persons. This must be a law *post factum*. May it not be said the proposing this is an overt act to compass the King's death? A conspiracy to levy war is not a levying of it. We stand before your Lordships and say this is not an overt act. If it be a doubt, will your Lordships take it upon your consciences to ordain a man to death? This meeting was at a tavern. The doors not locked. No secrecy at all. Doors open. The withdrawing Mr. Goodman, that is only a misdemeanour. Is this a reason to attaint him a traitor? Your ancestors did consider what was good for the people. I submit whether there is any one thing in the Bill proved on Sir John Fenwick. Does a pardon alter a man's mind, or clear the guilt? Counsel and Sir John withdrew. Orders made as in L. J.

On 18 Dec., after Sir John's Information, taken in November 1696, had been read, *proposed*, That the two lords mentioned by the Counsel give account. *E. Carlisle* says that Sir John Fenwick was ready to surrender himself if he might be bailed; and this message the Lady M. Fenwick brought to D. Norfolk and me, he being assured of his innocence, and the Habeas Corpus Act being suspended. *D. Norfolk* says that Lady M. Fenwick came to him to desire him to go to the King and acquaint him that he was ready to surrender himself if he might be bailed, or his own house made his prison, for he could not lie in an ugly gaol. He acquainted the King with it. He was not pleased to declare anything. *E. Carlisle*: I presume it was about ten days after he absconded. *Proposed* to ask the L. C. Justice if the printed trials were as the shorthand writers have cited. *Ans.* I believe the mistake happened between the shorthand writers. Mr. Porter and Delarew came and told me there were mistakes in the trial. I believe there was a mistake. I never examined the printed paper with the copy. I think they came in a fortnight or less. *Moved* to send for the printer of the trial. *Moved* to hear the D. Devonshire, if he please, as to what he transacted with the Prisoner. *D. Devonshire* says, if Sir John had said anything to him but what was in the paper, he should have acquainted the Lord Justices or the King with it. As to putting off the trial, I believe all Mr. Vernon said was true. *Moved* to give the Bill a Second Reading. After debate, the House was adjourned during pleasure and the candles lighted. After some time, the house was resumed. 21 Ric. II., case cited—E. Norfolk—E. Arundel. After long debate whether the Bill shall be read a second time or not, question resolved in the *affirmative*. Contents 73, Not Contents 55—E. Marlborough and E. Scarsdale Tellers. *Mem.* At this question every lord voted Content or not as his name was called over by the List of the Nobility. Bill read 2ª, 49 lords protesting.

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On 22 Dec., Sir John Fenwiek being brought to the Bar, pursuant to his Petition to be heard before the Third Reading (Paper *g* below,) the Lord Keeper, by Order, told him that the Lords had considered his Petition, and had sent for him thereupon, and were ready to hear him. *Sir John:* I humbly thank your Lordships for this favour. I would elear myself as much as I can of what is alleged in the Bill against me. It was drawn by the King's Counsel, and in the House of Commons it was not said I was guilty when my Counsel heard. I declare I went not to that meeting in Leadenhall Street to invite King James to come with his forces, neither did I consent to it. I never knew that King James was at Calais. I never provided any horse or arms. What I acquainted a great man (? many) with was the truth of what I knew at the time. I submit all to you. I stand before you. I desire a Divine, Dr. White, and my wife to come and go to me; and I submit all to your Lordships. *Proposed* to ask Sir John Fenwick whether he received any direetions by writing or message from any person how he should behave himself at his trial either at the House of Commons or this House, by writing or otherwise, either by or from whom? *Sir John Fenwick* (called in and asked the above): I never but by advice of my Counsel on the Bill, which your Lordships allowed. He was taken from the Bar. *Proposed* to ask Sir John, (1) Whether he did not receive directions in writing, either from one of this House or of the House of Commons, how to govern himself at his trial in either House? (2) Whether he was willing to discover to this House what he told Mr. Vernon he reserved to acquaint His Majesty with, upon his taking his confession upon oath? (3) and whether he had acquainted the King with it. Agreed that E. Carlisle propose the [first] question when Sir John Fenwiek is at the Bar. D. Norfolk to ask his question if he pleases. Sir John was brought in. *E. Carlisle* desired Sir John might be asked whether he had not received any direction in writing? *Ans.* I received none since I was at this Bar. *Asked*, if he did before? *Ans.* I was told of something for my advantage. He names my Lord Monmouth. *Q.* Who told you so? *Ans.* I had it sent to me. It was sent me by the Duehess of Norfolk. My wife brought it to me. I know not the paper. I was showed it. I cannot remember what it was. The Duchess can tell. *Asked*, Where the Paper is? *Ans.* I gave it my wife again. It was when I was before the House of Commons. Sir John withdrew. Then the Duchess, Lady M. Fenwick and Mrs. Lawson were ordered to attend. *Proposed* to ask Sir John questions (2) and (3) above. Sir John was brought in and told the Lords had sent to inquire after the paper, and Lady M. Fenwick &c. He was asked the above questions. *Answer to first question:* I do not remember any such thing. Those particular matters the King was acquainted with before. I desire the protection of the House if I answer any questions. Your Lordships were pleased to tell me it should not be prejudicial to me. I desire a Vote or an Order. He was taken from the Bar. *Proposed* to make a Vote that what the Prisoner shall say at the Bar shall not be prejudeial to him here or elsewhere. *Ordered*, That nothing Sir John Fenwick shall say at the Bar of this House shall be ever made use of here or in any other place to his prejudice. *Proposed* to ask Sir J. whether all that matter which during the King's . . . . he desired to reserve to aequaint His Majesty with has been sent to His Majesty by writing or otherwise? Sir John, being brought in, was told the Lords have passed a Voté, which was read to him, for his security. You have heard this Vote. You need not doubt but this will be a security to you. *Sir John:* I question whether this will be good when the

(g.)

1696. — No. 1081. Parliament is over, in the intervals of Parliament. I desire to be secured from being an evidence, which is worse than death. I desire a general pardon. Sir John was taken from the Bar. *Proposed* to ask the Judges whether, if any person hear what Sir John says here, and he come into the Court below, the Judges could refuse to hear him? Question, whether any person who hears Sir John here can be subpœna to be evidence in the Court below? *L. C. Justice:* I think he is a legal witness. (The messenger sent for Lady Mary Fenwick and Duchess of Norfolk and Mrs. Lawson returns this answer, that the Lady Mary Fenwick will be here presently, and that the Duchess is gone into the City, and Mrs. Lawson cannot be found. *Ordered* That the messenger leave the Order at the Duchess of Norfolk's house and Mrs. Lawson's). The House went into consideration of Sir John's request of security in other Courts, and his not being an evidence, and shall not be made an evidence—that what he says here shall not be made use of to induce him to give evidence in any other Court. *Moved* That he be called in and told that the House will make an Address to His Majesty that what he shall say here, at the Bar of this House, shall not be made use of against him in any other place as evidence. Sir John was brought in again and told that, since the vote, the Lords are resolved to address His Majesty that what he should say at the Bar of this House shall not be brought in evidence against him. *Sir John:* I thank this House. An Address may be granted or refused. The thing that I insist on is to be secure. I humbly move whether this comprehends my being an evidence and a general pardon. There was no objection made to this by the noble lord [L. Steward in margin] to whom I proposed it. I do not think the Address a security till it is answered by the King. Sir John taken from the Bar. (L. Haversham leave to be absent, being ill). *Ordered* The L. Wharton attend His Majesty with the Address. *Moved* to call in Sir John and acquaint him that the Address was sent to His Majesty, and that your Lordships did not doubt he needs not doubt of a favourable answer; and that, as to his not being evidence and have a general pardon, it was not in your power to grant; neither was it their judgment to make such an application at this time. But, if he makes such a confession as in their Lordships' judgment deserves such an intercession, that then this House will intercede with His Majesty for a pardon, and that he may not be made use of as an evidence. Sir John was called in again and told as above, and then the paper was delivered to him to look on. *Sir John* says, I know not what answer to give till I have a security. *Asked*, What he means by a security? *Ans.* What I asked when here last. I insist on it absolutely, never to be an evidence. I do apprehend what your Lordships propose in the paper. It is to be doubted till it be done. House adjourned during pleasure. House resumed. L. Wharton reported the King's answer, as in L. J. (*Moved* to call in the Lady M. Fenwick. *Ordered* That the Messenger go and acquaint the Duchess that she attend presently, and Mrs. Lawson). Sir John was sent for in, and told His Majesty's answer to the Address, and shown the paper as before. *Sir John:* I do not think myself safe yet. I have not an answer to my not being an evidence If I do not make such a confession as is liked, I must die. I insist on a general pardon, and not to be made use of as an evidence. Sir John was taken from the Bar. *Proposed* to call in Sir John and let him know that the Lords conceive he is under a mistake; for, when he made these proposals to the Lord Steward in the summer of a pardon and no evidence, to which he said there was no exception, the King's

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answer was that he would not capitulate with him; but the Lord was to receive any information; and that he had reason to be sensible of how much weight an intercession of this House to His Majesty would always have; and that he desired that before his confession which would be considered after and to interpose for if your confession deserved it; and that the next thing was that the Lords would proceed to read the Bill the third time. Sir John (called in and told as above); I never heard that the King would not capitulate or make conditions with you [? me]. *L. Steward* [D. Devonshire] heard. Desires Sir John may be asked if I acquainted him of any encouragement for a pardon, but that I sent it to the King? *Sir John:* I did not say I had any encouragement. I have not said the Lord Steward did give any assurance to me of a pardon. He was taken from the Bar, and then sent for in again and asked whether he will go on to make any confession upon what has been said to him? *Ans.* I have given my answer to it. I have no security. If I had, I should be willing to satisfy the House to anything I could. *Moved* to read the Bill the 3rd time. *Moved* to adjourn the House. Bill ordered to be read 3_a the following day, and other Orders made, as in L. J., XVI. 47. Then the *Lady M. Fenwick* was called in, and told that Sir John had informed that there was a paper of instructions how Sir John should behave himself at his trial here or in the House of Commons; and [she was asked] where that paper is, and whether she wrote to the Duchess of Norfolk about anything relating to the E. Monmouth? She says she has the paper. She says there are three papers. She had them from a lady of quality. I promised not to name her. She withdrew. *Proposed* that she be sworn and told that Sir John acquainted the House that she had the papers from the Duchess of Norfolk. She was called in and sworn, and asked as above. *Ans.* What Sir John has said does not quit me of my promise. *Q.* Who had you these papers of? *Ans.* I have made my exceptions. I cannot tell who I had them of. *Asked* if she knew the handwriting of those papers, she says she does know the hand that copied them in her chamber. Mrs. Symonds the woman's name is that copied them. *Asked* if she knows the original papers, whose hand they were in? *Ans.* I do not. She was bid deliver the papers to the Clerk, which she did (Papers *h*). If Sir John said it was the Duchess of Norfolk, I do not deny it. I excepted against that part of the oath. It is the lady Sir John named, the Duchess of Norfolk. After I received one paper, I desired further instructions. I had it in another paper. This Lord said he would meet Sir John's Counsel. I wrote to Sir Thomas Powys, to appoint a time. Sir Thomas was busy and could not appoint it. *Q.* To whom did you discourse? *Ans.* It was with the Duchess of Norfolk. I desired the E. Carlisle to go to the E. Monmouth to make good his promise. *Asked* whether she had not written to the Duchess of Norfolk about the L. Monmouth? *Ans.* I did write to the Duchess about it (*see* Paper k^1). She withdrew. The papers were read and delivered to the L. Keeper. Orders made as in L. J.

On 23 Dec., after the call of the House and the settlement of the altercation between E. Scarbrough and L. Jeffreys, the Judges were ordered to attend immediately, and the keys of the two upper doors were ordered to be laid on the table after the doors were locked up. Then leave was given to L. Fitzwalter to be absent for a week or 10 days, and the like for L. Guilford, L. Ashburnham, V. Longueville, E. Berkeley, E. Winchilsea, E. Kent, E. Carlisle, D. Richmond, L. Wharton, E. Bolingbroke, D. St. Albans, E. Essex, E. Sandwich, For these Orders was substituted an Order giving leave to all lords

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till the day after Twelfth Day. Then the Bill was read 3a, and, after long debate, passed by 68 to 61, Tellers E. Winchilsea and E. Scarbrough. After the Bill had been returned to the Commons, the House was acquainted that the Duchess of Norfolk was attending as ordered. The Lady *Duchess of Norfolk* was called in, and a chair set for her at the end of the Clerks' Table. The Duchess was heard. Says she is much surprised to be sent for, and she does not know for what; and desires she may be assured that what she says may not be prejudicial to her. The House acquainted her that nothing she shall say on her oath shall be to her prejudice. Then she was sworn. The three papers delivered last night (Papers *h* below) were shown to her. *Asked* if she ever saw them before? *Ans.* I cannot say I ever saw them. The paper I delivered I did not see or know. I did deliver them to the Lady M. Fenwick out of compassion to her. *Asked* if the Duchess received any of these papers from the E. Monmouth? *Ans.* I cannot say I ever saw these papers. I know not the handwriting, nor what was in them. *Asked* if she received any paper from E. Monmouth? *Ans.* I cannot tell. *Asked* if she had any paper from E. Monmouth delivered to Lady M. Fenwick? *Ans.* It is a hard question. I did. I cannot say what papers they were. *Asked*, How many papers she had to deliver to Lady M. Fenwick? *Ans.* I know not whether two or three. I thought they might be serviceable to Lady M. Fenwick. *Asked* If those papers were delivered by me* to her, and whether she did not receive one or some of them from another hand? *Ans.* I do not remember I did. There was one sent to me, but I was not at home. I think my Lord after gave it me. *Asked*, Who informed you these papers might be serviceable to Sir John Fenwick? *Ans.* It was the Lord that gave them me. She was shown a letter (Paper k^1 below), and said she knew it was Lady M. Fenwick's hand. *Asked* If I ever gave her any paper till after that letter? *Ans.* It was after that letter. *Ashed* whether E. Monmouth ever said anything of this letter, but about Sir John's confession? *Ans.* The E. Monmouth never spake anything to me but about Sir John's confession, and to advise him to it. All my Lord Monmouth says is true about what the E. Monmouth said to her. *Asked* whether she did not ask me why I would be so fierce when I was not named by Sir John Fenwick? *Asked* How long it is since I spake to her on the subject. *Ans.* Not some weeks. Three weeks or a month. *Asked* whether the Duchess desired me to meet the Lady M. Fenwick? *Ans.* I did desire my Lord to see my Lady Fenwick, and his Lordship refused it. *Asked* whether there was any manner of discourse with me, but only upon the subject of making his confession? *Ans.* I do not remember anything else. I believe all your Lordship said was to bring him to confession. *Asked* whether her Grace remembers she was inquiring of me [whether] there was a person coming to town, and I told her there was no such body? *Ans.* Yes, you did. *Asked* if those papers you carried to Lady M. Fenwick you left there? *Ans.* They were left with her, and whether she copied them or not I cannot tell. She sent them to her when not well. *Asked* if she knew Mrs. Symons? *Ans.* I do not. The Duchess withdrew. *E. Monmouth* heard. The letter read, written by Lady M. Fenwick (Paper k^1 below) to Duchess of Norfolk. *Ordered* That Lady M. Fenwick, Mrs. Lawson, Mrs. Symons, and the Duchess of Norfolk do attend on Thursday 7 Jan. next.

On 7 Jan. 1696-7 Lady M. Fenwick was called in and sworn. She was told that, she being examined concerning some papers, that now

* The questions appear to have been put by E. Monmouth himself.

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she was to acquaint the House with the whole matter, and that it is to be taken in writing. *Lady M. Fenwick:* In obedience to the commands of the House, this was the transaction of a fortnight or three weeks. I cannot remember; I have put something in a paper. Then she gives the account printed substantially *in extenso* in L. J., XVI. 60–1. The passage beginning at line 4 from bottom of page 60 reads as follows :—"My Lord said the King had said Sir John had abused him, and the King had used Sir John basely." That beginning at line 3 of last paragraph in first column of page 61 is as follows :— "I desired to know how I should be sure of the original papers from "that Captain [Smith], and that he [E. Monmouth] would justify "what he said if Sir John had occasion to see him." In line 6 from bottom :—"My Lady Duchess told me my Lord had been with the "King since this business of Sir John, and that he had told the "King himself and friends had espoused [? exposed] that paper; and "the King seemed to be concerned he had done so." Lady M. Fenwick then withdrew, after what was taken had been read to her. The *Duchess of Norfolk* was then examined and later re-examined, as in L. J., XVI. 62. The passage at the top of second column of page is as follows :—"He told me some methods in general, and I prayed "my Lord Monmouth to have them in writing. I told him I have "had troubles and some chagrins upon me." After the Duchess had given her evidence down to line 8 of second column, she withdrew, and *Mrs. Lawson* was examined as in L. J., XVI. 61–2, interrupting her examination to desire the protection of the House, having heard some threats against her. The House gave her their protection. She was asked what she heard of threats. She said it was reported in coffee-houses. The passage beginning page 62, line 28, is as follows :—And that Sir John Fenwick would call my Lord Romney and L. Portland to say what they knew of this matter, letter intercepted and brought to the King of this correspondence, and that the House would [present an] Address to the King for the letters concerning this matter or correspondence to demonstrate the truth of this; the Lord Godolphin had carried to the King a letter and a present which she sent to the Queen in France; and that it was in the King's knowledge; and that the King knew the correspondence the great men had with France. Then she withdrew, and it was *proposed* to call in the Duchess of Norfolk again and ask her whether Mrs. Lawson was with her when word was brought that the E. Monmouth was coming up, and whether she did withdraw when he came in, and whether she can give account in general. *Duchess of Norfolk* was called in again. *Asked* if she had recollected herself, she says she had, but could not say more unless Mrs. Lawson's information be read. As to Mrs. Lawson's being with me, the particular is true. Mrs. Lawson was with me, and she went out of the way, being undressed. If I hear what she has said, then I can tell whether it is the same I heard then. I remember when my Lord was with [me] there was so much discourse about Sir John Fenwick I was weary of this matter, and told my Lord so, and Sir Thomas Powys was sent to at my Lord Monmouth's desire, though not in his name, but by the name of a Lord and a Privy Councillor. Sir Thomas Powys refused to come—or Sir Barth: Shore my Lord Monmouth would have spoken with. *Asked* what the matter Sir Tho: Powys would not come on? *Ans.* The Lady Fenwick wrote to Sir Tho: Powys to acquaint him that a Lord, a Privy Councillor, would speak with him. I never heard Sir Tho: Powys knew what the matter was but by Lady Fenwick's letter, which did not mention it. The *Lady Duchess* is put in mind of her

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oath, and that if she does not tell what she knows it is as much a fault as if she spoke what is false. The Duchess then gave the evidence set out in L. J., XVI. p. 62, l. 28 to page 63, l. 17. In addition, the paper (k^3 below) was read. The Lady Duchess owns that by the words "The party is of opinion" she meant the L. Monmouth. Her Grace knows not but she wrote another paper the Lady Fenwick had, and that it was amended, being false spelt, by his Lordship's directions. The Duchess then withdrew. *Moved* to call in Mrs. Lawson and read to her that part of her Information that relates to the King, and also the Duchess of Norfolk, and ask concerning what relates to the King. The *Duchess of Norfolk* was called in again, and that part which relates to the King of her Information being read to her, she was asked whether that was all that she heard the Lord Monmouth say concerning the King? and told that What you say is on your oath. *Ans.* The L. Monmouth seemed to blame the King, thinking he had done hardly by Sir John Fenwick in exposing his papers. My Lord expressed himself with a little heat, seemingly as if the King had been unjust; but I remember not the expressions, but my Lord spoke with passion. *Asked* by E. Monmouth, Whether my concern was not from Sir John Fenwick's naming the E. Monmouth? Whether the E. Monmouth was not afraid that, the paper not being produced, it would not be evident he was not in it? *Ans.* I found my Lord Monmouth [concerned], when he heard he was named in Sir John Fenwick's paper, saying he was hardly acquainted with him. *Mrs. Lawson* was then recalled and gave the evidence set out in L. J., XVI. 62, in the last paragraph of her Information. *Mrs. Symons* then gave the evidence set out in L. J., XVI. 63. Her last answer reads "The paper I copied mine from was not like this; far different from, and a much smaller hand, so all marked I could hardly understand it."

On 9 Jan., the E. Carlisle (who had been ordered on the 7th to attend) being come, *Ordered* that the Officers summon the Lords absent. *Question* was put Whether this House shall be adjourned. Adjourned during pleasure. House was resumed. The House went into debate upon the Information of the Lady Mary Fenwick, the Duchess of Norfolk, Mrs. Lawson, and Mrs. Symons. *Proposed* to read the evidence as it was taken. *Proposed* that the evidence given in this case before Christmas be recapitulated and written down. Then the *E. Monmouth* recapitulated the evidence before Christmas. The first question asked the Duchess of Norfolk was whether she knew those papers. She said, No, she had never seen them; that she never had read any papers. I had papers from L. Monmouth. I delivered them to Lady M. Fenwick. Asked whether she had ever had any paper under my hand, she said, No. Had you these papers from me? She replied, No, she never wrote nor read any papers. Lady M. Fenwick was asked about a paper. She said she had three, one an original, two copies, the originals given back. Lady M. Fenwick's evidence then given and these now are pretty near the same; only when she came to her notes she remembered discourses concerning the King. No mention of the E. Carlisle at first. *E. Carlisle* says he could not directly know who those papers came from. I was told they came from E. Monmouth. *E. Monmouth:* Lady M. Fenwick gave in those papers as all from the Duchess of Norfolk. *Agreed* That the Lady M. Fenwick said all the three papers were received from the Duchess of Norfolk as from E. Monmouth. It was owned by the Duchess that she never wrote any papers from him. *Moved* to read the Informations taken the 7th inst. of Lady M. Fenwick, Duchess of Norfolk, Mrs. Lawson and

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Mrs. Symons. The three papers delivered by the Lady M. Fenwick (Papers *h* below) were read. Lady M. Fenwick's letter (k^1) read. Her deposition read, as also those of Mrs. Lawson, the Duchess and Mrs. Symons (k^2—k^6). *E. Carlisle* heard: As to what the Lady M. Fenwick deposed concerning my writing a paper, it was true. The Lady M. Fenwick desired me to write what Mrs. Lawson said, and I did, and desired the paper might be burnt when copied again. I presume it was. I never had it again. *House moved* to send for Capt. Smith. *Ordered* that Capt. Smith do immediately* attend this House. *E. Monmouth* heard as to the depositions and papers before read: First, I observe what sort of people these are, and how improper to be evidence against me. Hearsays are not allowed to be evidences. Lady M. Fenwick, a person of busy temper, to bring things to her end. She confesses herself provoked, and suspect to withdraw evidence. Mrs. Lawson has a pension of 100*l.* per annum on the life of the man in question. I was the occasion of bringing this on—an inst[ance] of my madness, if I thought myself guilty. The Duchess of Norfolk, she is a Roman Catholic. I never had correspondence with this lady till of late, she coming out of respect as she said to my children; and then she brought in the Lady M. Fenwick's letter. One of my brothers, made a priest, carried into France by this lady. The malice and villainy of this evidence I shall show you. These papers produced and read, the grounds [to] induce [you] to believe they are mine—the only body that can charge me says she knew nothing of them. I must be account[able] for what Lady M. Fenwick says. It is agreed these papers, by her evidence, were given by me to the Duchess of Norfolk. Hers is a hearsay from Mrs. Lawson's hearsay. She swears the Duchess asked me the question. The Duchess says she would not meddle in this matter, and after owns what she denied before. Women sacrifice everything to carry on what the priests put them upon. As for Capt. Smith, I know him. I was not desirous to promote this. Why should I be angry with Sir John? Sir John was willing to make use of these offers. The impossibility and self nonsense in this case will make it evident. Concerning what she says I said of the King, what Lady M. Fenwick says is hearsay. Mrs. Lawson says she heard it. The contrivance is the malice. What pretence could a man have to say the King had done ill? In this case had the King promised anything? The malice is to engage me in this matter. It is said, because the King knew it true. No, the King could not do so. This paper being produced was the only thing that could justify me, as I was afraid it would not. Lady M. Fenwick gives account of a short paper given her by the Duchess of Norfolk. The Duchess denies she copied anything from me, she said she was only barely the carrier; and now she thinks there was another paper. That I should do this is strange. They have added perjuries, which widens the business. One is called an original. Why should I leave one and not another? This all hearsay. To these ladies is a paper given of cyphers. It is strange I should give such to whom I did not correspond. Mrs. Lawson heard scandalous thing of the King behind a door. Nothing but her utmost malice could do this. Lady M. Fenwick swears to account Lawson gave her. Was the Duchess of Norfolk to be trusted with such unnecessary things as these were? Must I foolishly, to no purpose, do this? Ought I to provoke them if I had done this? I can prove menaces against me if I proceeded against Sir John Fenwick. This was all calculated for the House of Lords, and yet I never spoke to her till after Lady M. Fenwick's letter. I never

* Altered from "on Monday next," the 11th.

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spoke to her since it was in the House of Lords. *Moved* to pass a vote that the papers laid before this House by Lady M. Fenwick, on 22 Dec. last, are of a scandalous, villainous nature, and very criminal; that the contrivance of these papers is a very high misdemeanour. *Proposed* to call in Mr. Robins and hear him. *Mr. Robins* was called in and sworn. *Asked* whether he acquainted E. Monmouth? *Ans.* I did: *Q.* Upon what account? *Ans.* My Lord Monmouth I have had great obligations to, and, hearing discourses, I gave him that intimation. *Asked* if E. Monmouth asked him to inquire whence that did arise? *Ans.* He did. On Monday I told him I had made an inquiry, but at distance, from a gentleman; that his Lordship was named and one Graham. Mr. Harcourt, of the Crown Office, informed me of it. I have a list of some names Sir John Fenwick has named. He said he had it from a person who said he had it directly from the Lady M. Fenwick. *Asked* where he gave this account to E. Monmouth? *Ans.* At his own house and Mr. Secretary Trumball's house, There was nobody in the room but us three. I had some occasion of speaking to my Lord Monmouth. He appointed me at a Coffee house. Thence E. Monmouth sent for me to Sir Wm. Trumball's (compare L. J., XVI. 63). Then *resolved* as in L. J., XVI. 54, and Simon Harcourt, Esqre. ordered to attend on Monday the 11th. The Messenger sent to summon Capt. Smith informed the House he could not find him. *Ordered* That Capt. Smith be taken into custody and attend Monday next.

On 11 Jan, the Order being read for proceeding on the Lady M. Fenwick's papers, *E. Monmouth* heard as to the three papers. The House was informed that Mr. Simon Harcourt was not in town, but at Oxford. That Capt. Smith was in custody. *Proposed* to examine Smith to what is said in Lady M. Fenwick's papers about four original letters, and that Capt. Smith can give account of that. *Question proposed* to ask Mr. Smith by E. Monmouth, Whether he did bring any informations relating to public affairs to E. Monmouth? If he did, at what time he did it, and what E. Monmouth did thereupon?* *Capt. Smith* was brought to the Bar, and sworn, and asked as above. *Ans.* As to what I brought to E. Monmouth, it was an account of what service I had done to the nation in general; and I was ready to justify what I had done. *Asked* when that was brought to E. Monmouth? *Ans.* Some few days before the King went for Flanders last year. *Asked*, What was it that E. Monmouth did do upon your giving him this account? *Ans.* The E. Monmouth acquainted the King with it, but the King was in a hurry going to Flanders. *Asked* what E. Monmouth did in pursuance of that information, and to whom I carried him, and when? *Ans.* When the E. Monmouth came back from waiting on the King, he carried me to the Secretary of State, before whom I laid the original papers and letters and correspondence I held, and what I had done. *Asked* if he ever spoke with E. Monmouth before that? *Ans.* I never spoke with E. Monmouth before that time, and was altogether a stranger to him. *Asked* whether he was not long before the time he spoke with me in some Minister's of State? *Ans.* I was, for fifteen months, as my letters and answers will demonstrate—the Duke of Shrewsbury. *Asked* whether he had given information to the Duke of Norfolk to the same purpose? *Ans.* After the discovery of this last plot, I did let the Duke know how far I had been serviceable in discovery of this plot, and I showed

* The question first proposed to be asked, and then expunged, was, At what time he gave me any information relating to public affairs, and where, and whether I did not carry him to a Secretary of State?

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him two letters of it, and the Duke seemed well pleased. *Asked* whether Sir Wm. Trumball and E. Monmouth all along desired him to have patience until they might be considered and laid before the King at his return? *Ans.* I was told so by them, and I did submit to their opinion, and never corresponded with any other; and which accordingly I have done. *Asked* whether, some little time after the King's return, the E. Monmouth spoke to him in relation to D. Norfolk? *Ans.* I cannot tell the exact time. I cannot tell but my Lord bid me have a care of the Duchess of Norfolk, and not to have to do with him, and keep myself to myself; and as to the affairs, it was matters of this correspondency of mine. I heard that Sir John Fenwick had papers, and my name was used. I know nothing of it. *Asked*, whether he had any direction or intimation from any person that you should be ex[amined] as to what you had said to the D. Norfolk touching the correspondence held between King James and the great men in the Government? *Ans.* I never had any intimation or direction. *Asked*, What intimation or direction had you of any original letters of the D. of Shrewsbury? *Ans.* I never had any. *Asked* whether he sent a letter to me lately, and whether I sent any answer? *Ans.* I did send a letter, and I will stand by it. I had no answer. *Asked* what the services he did fifteen months since. *Ans.* I gave account where arms were concealed, in or about the Lancashire Plot; and they were found. And I found arms bought up that year, and to whom they were sent. These arms I expected to be sent for. I gave account where they were. They were not seized at that time. It was about the Queen's death. I gave account of Sir Wm. Perkins and of Charnock's meetings in the City in December 1695. I waited on the D. Shrewsbury. He received me kindly. My servant went to his Grace, and his Grace sent me 20*l.* and said I should have it quarterly. *Ordered* that Capt. Smith be discharged without fees. Then the Order as to Smith's papers and the several others in L. J., XVI. 55–6 were made, and the Duchess of Norfolk's letter directed to the Lord Keeper was read, desiring to be heard if the E. Monmouth denies what she has sworn.

On 12 Jan. the papers (Smith's) from Sir Wm. Trumball were brought in, sealed up, in three bundles. *Mr. Vernon*, a member of the House of Commons, was called in and told the Lords had the examination of Mr. Smith at the Bar, and that he had corresponded with D. Shrewsbury, and was referred to you; and that he was not gratified for those services. *Ans.* I know Mr. Smith. My acquaintance was but short with him. It was about this time twelve months. I intend, says the D. Shr[ewsbury], to you. And then he came often to me. I asked what the informations were. I found him full of undertaking. I pressed for performance. I pressed him to find out the author of a book, but he could not. He told me of a man come out of France with orders. At last he named Holmes, and then Counter. I took notice of that name, because I heard from the Envoy of Switzerland of such a fellow. I pressed him to find out this Counter and Holmes. I pressed him so much that I found him disgusted with me. I questioned whether it was not shyness. I could make nothing of what he talked of people coming over. He wrote to L. D., and I believe he learnt more names. At last he came and said, if he could have 50*l.*, he was to be let into the secret. My Lord Duke said, He shall have this 50*l.*, but I do not love to be * * * drained. I gave him 20*l.* He refused it. Afterwards he took it. I said, "Mr. Smith, you have had something by the end. I am now surprised that you have known something." He told me he had his information from one Ewen [Hewet] a young fellow. We sent for

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him. I examined him. He denied every article of the Interrogatories. Then I confronted Smith and him together. So he talked with him. But he was stubborn. I believe the boy did know a little, and was sent with letters. He had carried a pair of pistols to a house in Southampton Street. *Mr. Vernon* was told that his attendance at this time is not expected any further. *E. Portland* gave account of some letters received from Mr. Smith which were read, marked 1 to 11. *Mr. Smith* was called in. Owned the paper delivered from Mr. Secretary Trumball, and owned they were as he left them, sealed up; and was asked some questions upon his letters sent to E. Portland, and was heard as to the services now in agitation: I have the copy of the original letter, and he gave me the copy in the presence of my man. I seldom pay money myself. John Hewet gave me the letter. I have no intelligence but by Mr. Hewet. He is the best intelligencer in England. My man can give account of a particular of a letter lately come. Hewet said he would murder him if he was betrayed. He wrote it from a copy of a copy he had, which he said he took from the original. Mr. Hewet is the disposer of the letters which come over. *Asked* what he has given Mr. Hewet? *Ans.* Some pounds I have given him. The biggest sum is a guinea. I gave him at another time 10*s.*, and am to make it up 3*l.* My man was by when I gave Hewet 10*s.*, and promised to make it 10*l.* *Q.* What money gave you to Hewet before the King's going into Flanders? *Ans.* Several times last winter I gave him 20*s.* I paid a tailor 20*s.* for him. He lives in Lincoln's Inn Fields. He lives I think on the left hand. The tailor came to the alehouse. Hewet was by then. I believe Hewet knows who the letter was directed to. *John Hewet* was called in and sworn: I follow no employment. My mother maintains me in victuals. I never distribute letters. I wrote him news out of the Post Boy. He informed against me before. I was discharged. *Mr. Smith* was called in and confronted with John Hewet. He said, I came in a few days before, and I came from Melfort. *Ordered* that Smith and Hewet be taken into custody. *Thomas Carlow* (sworn) says he found Smith fuddled in the street, and after that he was kind to him. I know Hewet. My master told me he was his intelligencer. My master read his letter to me. Hewet told my master it came from Melfort. I am sure he told my master who it was directed to. My master promised him so much money, and if my master did not pay him, and discovered it, he would kill him. He copied out of the original letter. A copy of a copy he said was from the original. *D. Norfolk* was heard as to what Capt. Smith had said to him: He told me nothing, that I know of, of any correspondence. I asked if he knew of any. He said he did not. He talked of original letters, and he pressed to be rewarded for what he had done. Mr. Smith's letters of February 1695 read, directed to the D. of Shrewsbury. *Moved* to adjourn this business to Friday next, and Mr. Vernon to be heard. *Mr. Vernon* was called in and told that the Lords have read Smith's letters of February 1695, and asked if he have the originals? *Ans.* The Duke keeps his own letters. *Moved* to send to the Duke of Shrewsbury to know if he has the letters Mr. Smith wrote to him the month of February last; and, if he has, that they may be communicated to this House. *Mr. Vernon*, called in again, says, He did give account of other matters, near the matter as it came to be afterwards, but not so as the Duke could take hold of any person. There were things of this nature. Mr. Vernon was directed to write to D. Shrewsbury and let him know the House would be informed whether he has the original letters, and that, if he has any, they be laid before the House on Friday next (the 14th).

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On 13 Jan. *Mr. Smith* was called in and sworn. *Asked* whether the letters and copies of letters he delivered into Sir Wm. Trumball's hands are true copies, some written to the Duke of Shrewsbury and Mr. Vernon, can you say they are true? *Ans.* I do say they are the copies of such letters as I sent; but they may vary in some words, but not in substance. *Asked* whether he sent any letter to the Duke of Shrewsbury of the 19 Feb.? *Ans.* The dates cannot vary above a day or two. I can say the substance of them is true. That letter was sent on a Thursday night. It is, as to names and circumstances, true. That was the last letter I wrote before the discovery of the plot. There was Sir Geo. Berkeley, Mr. Holmes, Mr. Boys, Mr. Porter. *Ordered* that no person be suffered to speak with Mr. Smith nor Mr. Hewet, now in custody. A petition of Geo. Porter, to be heard concerning a design to take away the life of a material witness of the King's. *Proposed* to ask Mr. Porter (1) whether anything he would inform the House of relates to E. Monmouth? (2) what he can say to any design by the Duchess of Norfolk against any of the King's witnesses. *Order* for witnesses for E. Monmouth:—Secretary Trumball, Mr. Mountain (Monckton) and Mr. Moyle, to give evidence in relation to some matters which concern E. Monmouth. Message to H.C. for this. * * * *Mr. Porter* was called in, sworn, and asked the first question proposed. *Ans.* I have nothing relating to E. Monmouth. What I have to say is relating to the Duchess of Norfolk: that the Duchess did send to Mrs. Norton, and did offer to her to produce evidence to swear that I was guilty of the murder of her husband. He produces some affidavits taken before Justice Ireton. There are others taken by L. C. Justice, and are before the Attorney General. * * * Mr. Ireton to be called in and asked if any persons were examined before him. Orders for witnesses, as in L. J., XVI. 57–8, made. Mr. Robin's deposition was read. *Mr. Harcourt* gave the evidence set out in substance in L. J., XVI. 65–6. The passage as to E. Monmouth at Will's Coffeehouse reads:—I heard your Lordship was at Will's Coffeehouse, and that you there produced a letter wherein Sir John Fenwick owned you were not in his papers. *Mr. Monckton* was called in, sworn, and asked what he heard Capt. Smith say in relation to the Duchess of Norfolk. *Ans.* Mr. Smith said Mr. Jarmy desired to make some discovery, and that E. Monmouth had desired him not to do it. *Asked* what he knew of E. Monmouth and Duchess of Norfolk, what Capt. Smith said? *Ans.* He said he did not speak with Duchess of Norfolk. (*Compare* L. J., XVI. 66). *Mrs. Katherine Bragg*, called in, gave the evidence set out in L. J., XVI. 66–7, adding, I gave this oath last night to the Lord Chief Justice. *Mr. Baker* called in and sworn. *Asked* what time it was that he or the King's Counsel or Agents had notice of Mr. Goodman's being gone away? *Ans.* The first notice I had of it was a rumour on the Exchange. It was on a Thursday, and we heard of it on Saturday. He is told he should give account of this so soon as he could. *Mr. William Watkins*, *Mr. Charles Reade*, *Mrs. Norton*, *Mr. Baker*, *Mr. Tatnall* and *Mrs. Tatnall* then gave the evidence set out in L. J., XVI. 67–9.

On 14 Jan., after *Mr. Cresset*, *Mr. Dighton*, and *Mr. Moore* had given the evidence set out in L. J., XVI. 70–1, and Sir Richard Holford had reported Keymer's inability to give evidence (see *ib.* 58–9), *Elizabeth Walford* was sworn and asked what account she can give of the resolution of the wives of Cranborne and Keys to come hither and accuse Mr. Porter of having killed Mr. Norton, but no answer is entered. Then after *Mrs. Coalbeck*, *Mr. White* and *Mrs. Norton* had

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given the evidence set out in L. J., XVI. 71–2, it was *proposed* to call in E. Monmouth's servants to prove that the Duchess of Norfolk sent daily for him to come to her, and *Hannah Solomon* and *Francis Moore* gave the evidence set out *ib.* 72, the latter deposing that on 4 Novr. she sent five or six times to speak to my Lord; that her Grace must speak with my Lord. *Asked* whether I did not receive this penny post letter, 28 Novr.? *Ans.* You did. The letter was read, and E. Monmouth's man attested he remembers the receipt of it. Then *Ordered* That there shall be no further evidence heard or examined in this House in this matter.

On 15 Jan. a Petition of the Duchess of Norfolk was read (Paper *l*). Nothing done on it. Then Lady M. Fenwick's three papers, delivered on 22 Dec., (Papers *h*) were read, as also her letter to the Duchess set out in L. J., XVI. 60, and the Informations set out *ib.* 60–72 (Papers *k*). Then *E. Monmouth* was heard as to the evidence, first, as to what the Duchess said when first heard. After he had summed up the evidence for and against him, he withdrew. After debate, this Question was put, Whether the E. of Monmouth is guilty of the contrivance of the three papers delivered in to this House by the Lady M. Fenwick? The Question was put as in L. J., XVI. 72, and the Orders were made committing E. Monmouth to the Tower. For proceedings of Select Committee, E. Rochester Chairman, appointed to draw up the Representation to be presented to the King as to E. Monmouth's commitment, *see* Com. Book, 16 Jan.

On 18 Jan. the Representation was reported to the House. The last paragraph began with the words ("And in regard both to the nature of this offence") and ended with the words ("most humbly submitting the whole to Your Majesty's royal and most prudent consideration"), and on report it was *proposed* to leave out this latter sentence. Agreed to. Then it was *proposed* to leave out the former sentence. Question put whether to agree with the Committee as to these words? It was resolved in the negative. Contents 24, not contents 26. E. Manchester and L. Ferrers Tellers. The Representation was then agreed to with these two omissions. Then a letter from D. Shrewsbury concerning Smith's letters was read. *Moved* to read Smith's letters of correspondence with D. Shrewsbury, and a Committee appointed to do so.

On 19 Jan., in the said Committee, E. Rochester Chairman, the letters are begun to be read. *Mr. Smith* is called in and is shown two letters relating to the discovery of arms. Says the letter without date is next to that of 11 Dec. 1694. Says he was first acquainted with Mr. Hewet at Sir Wm. Perkins', in October or December 1695. *Mr. Vernon* is called in, and he and *Mr. Smith* heard on the reading of some of the letters. The Papers, being all read, are sealed up with the E. Rochester's seal, and left with the clerk. Mr. Vernon is desired to attend the House tomorrow, and Mr. Smith is appointed to be brought to the House tomorrow. The Lord in the chair, having taken notes of the most material of the Papers now read, will call for them to be read in the House when he acquaints the House the Committee have read over all the letters, &c. Com. Book, 19 Jan. 1696–7.

On 20 Jan. on report from the said Committee by E. Rochester, the following papers were read:—

2 Dec. 1694. Minutes of Mr. Smith, with his correspondence with D. Shrewsbury.
Nov. 1694. Minutes.
25 Nov. 1694 and 11 Dec. 1694.
Number 10. No date.

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18 Dec. 1694. Arms.
Dec. 1694, without a date, concerning arms at Sir Wm. Perkins'.
Dec. 1694. Paper instructions where arms bought.
31 March 1695.
11, 15, and 27 Dec. D. Shrewsbury's letters.
2 Feb. D. Shrewsbury, and Bill 20*l.*
16 Dec. 1695. Smith's Minutes.
23 Dec. 1695 and 15 Jan. 1695–6.
12 and 20 Jan. Minutes of discourse with Mr. Vernon.
Copy of letter to Mr. Vernon without a date.
10 and 11 Feb. 1695–6. Minutes, with D. Shrewsbury. These minutes written a mo: after the time.
14 Feb.
17 and 18 Feb. Letters.
19 Feb. Letter to D. Shrewsbury.
12, 22 and 24 Feb. Minutes of what said to Mr. Vernon.
7 March. No. 22. Letter to D. Shrewsbury.
A paper interrogatory for Hewet. 8 March. Not read.
19 May 1696. A letter to D. Shrewsbury complaining of his not being paid.
Minutes of discourse with Mr. Vernon, latter end of January.
22 Feb. Minutes of it.
21 May, 1696. Minutes, with Mr. Vernon.
D. Shrewsbury's and Mr. Vernon's letter to Smith.

The House ultimately *resolved* that Smith does not deserve any further reward.

On 22 Jan., on reading a Petition of Lady M. Fenwick, the House addressed the King to reprieve Sir John for a week, which the King did on the 23rd. On 26 Jan. on reading a Petition of Lady M. Fenwick praying for the banishment or perpetual imprisonment of Sir John, a motion to adjourn the House was carried by 23 to 21, Tellers E. Feversham and E. Tankerville.

E. Monmouth was liberated on 30 March 1697, on his Petition (Paper *q*) L. J., XVI. 140.] The papers are as follows :—

(*a*) 27 Nov. Holograph letter from Sir John Fenwick to the Lord Keeper, as follows :—Newgate, Nov. 27/96. My Lord, The Keeper here has acquainted me with the Orders of the House of Lords, to whom I would have addressed myself in the humblest manner I could. But he will not carry any paper from me but what is directed to yourself. I therefore beg the favour you will acquaint the House that it is my humble petition to their Lordships they will please to give an order that my Counsel, Sir Thomas Powys and Sir Bartholomew Shore, and my Solicitor, Mr. Christopher Dighton, may be permitted to come to me to advise with alone. I beseech your Lordship to pardon the trouble from your most obedient humble servant. *Signed* J. Fenwick [no entry in Records ; but *see* MS. Min. 1 Dec. and Notes above, p. 274].

(*b*) Papers as to the custody of Sir John Fenwick, viz. :—

(*b*)[1] 30 Nov. Letter from Sir William Trumball, Secretary of State, to the Lord Keeper, dated this day, as follows : My Lord, I sent this morning to speak with Fells, the Keeper of Newgate, who owned to me that, though he had the Order of the House of Lords, yet he had allowed Sir John Fenwick the use of pen, ink and paper in his (the Keeper's) presence, but did neither

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send to me, nor was there any person appointed by me to be at that time with Sir John Fenwick. I think the Order of their Lordships is expressly contrary to this proceeding of Fell's, and I hope notice may be taken of it; which I humbly submit, and am, with all respect, my Lord, your Lordship's most obedient and most humble servant Will: Trumball. [Read this day (L. J., XVI., 25) and Fell ordered to attend the following day. —On 1st Dec. Fell was called and owned he had let Sir John Fenwick have pen, ink and paper, contrary to the Order of the House. The Judges were heard as to the Sheriff's power over the Keeper of Newgate. *Proposed* to call in the Sheriffs of London and Middlesex. The Sheriff was called in and told that the Lords are so dissatisfied with the Keeper of Newgate that they do not think fit to continue Sir John Fenwick under his custody. I have a person in the chamber with Sir John Fenwick, and you are to take care that the prisoners of State are under your custody. The Sheriff undertook to secure the prisoners, and Fell was committed to the Gatehouse Prison. MS. Min.—Fell was released on 7 Jan. 1696–7, on his Petition (*b*)[3] below. L. J. XVI., 49.]

(*b*)[2] 8 Dec. Petition of James Fell. Having inadvertently allowed Sir John Fenwick pen, ink and paper, to write a letter to the Lord Keeper for his application to the House, in presence of himself only, instead of in presence of himself and such other person as the Secretary of State should think fit, as directed by the House, Petitioner had incurred their Lordships' displeasure, and is now a prisoner in the Gatehouse for that offence. Begs pardon, and prays to be discharged, as he will be required to officiate at the Sessions beginning at the Old Bailey on 9 Dec. [Read this day. *Endorsed* Nothing done on it. MS. Min. No entry in L. J.]

(*b*)[3] 7 Jan. 1696–7. Similar Petition of same. L. J., XVI. 49. [Read this day and Petitioner discharged.]

(*c*) 1 Dec. Sir John Fenwick's Holograph Confession. Printed *in extenso* in Dalrymple's Memoirs, Vol. II., Appx. Part II., p. 236. The original differs from the printed text in reading, in paragraph 2, "they would not lose the opportunity of attempting it"; and in paragraph 4, "and with much difficulty prevailed with them." [Read this day, and Sir John Fenwick examined upon it. *See* Notes above, p. 274.]

(*d*) 8 Dec. Petition of Sir John Fenwick, Bart. Petitioner, understanding from the Order of 1st Dec. that only Counsel would be heard this day, had not provided his witnesses, two of whom live near 100 miles from London. Prays for a convenient time to send for his witnesses and prepare his defence. *Signed* J. Fenwicke. L. J., XVI. 34.

(*e*) 9 Dec. Petition of Lady Mary Fenwick. Petitioner had heretofore free access to her husband in Newgate, but is now debarred from seeing him. There being many things she might assist him in to enable him to make his defence, prays for liberty of going to her husband and being with him in private. *Signed* M. Fenwicke. Read this day and liberty given so as she continue in prison with him. L. J., XVI. 35. *See also* notes above, p. 275.

(*f*) 16 Dec. Petition of Sir John Fenwick, Bart. Whereas Mr. Porter has given evidence against Petitioner that one Mr.

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Clancy endeavoured to dissuade him from appearing as a witness against Petitioner, which was urged as evidence against Petitioner, and whereas Mr. Clancy is now in execution, whereby Petitioner cannot produce him without an Order of the House, Petitioner prays for such an Order. *Signed* J. Fenwicke. L. J., XVI. 41. *See also* Notes above, p. 277.

(*g*) 22 Dec. Petition of same, *signed* as preceding paper, praying to be heard at the Bar before the Third Reading. L. J., XVI. 45.

(*h*) 22 Dec. Lady M. Fenwick's three papers, read this day, and on 9 Jan., and set out *in extenso* in L. J., XVI. 52–3, viz. :—

(*h*)[1] Paper marked No. 1. In paragraph 2, the Lords mentioned are Lords Portland and Ramsay (? Romney), the names being crossed out and initials substituted. In paragraphs 4 and 5, Capt. S. is Capt. Smith, all but the initial letter being crossed out. Before the last paragraph is the following, crossed out :— "I desire Mr. R. may be asked, upon honour, if Sr. F. did not come to him to Calais, and what sort of netery (*sic*) he got at that time. If he will swear he never sent a message nor returned one by Ld. Pl. [? Portland], let him forswear himself.

(*h*)[2] Paper marked No. 2. Identical with entry in L. J.

(*h*)[3] Paper marked No. 3. Identical with entry in L.J. Paragraph 5 at first followed paragraph 2.

(*i*) 13 Jan. Petition of George Porter, desiring to be heard upon oath to give an account of some conspiracies and designs that have lately been against the life of a most material witness for the King ; and the reason of his begging at this time is because he conceives it will very much relate to a business now depending before their Lordships. Their Lordships' most humble and devoted servant, (*signed*) George Porter. [Read this day. MS. Min. No entry in L. J. *See also* Notes above p. 293].

(*k*) 15 Jan. 1696-7. Papers and Examinations read this day and printed *in extenso* in L. J., XVI. 60–72, viz. :—

(*k*)[1] Autograph letter from Lady Mary Fenwick to the Duchess of Norfolk, *dated* Thursday. L. J., XVI. 60.

(*k*)[2] Lady Mary Fenwick's Examination on 7th Jan., concerning some instructions given to Sir John Fenwick in relation to his trial. *Marked* No. 1. *Ib.* 60–1.

(*k*)[3] 7 Jan. 1696–7. Paper dictated by E. Monmouth to the Duchess of Norfolk, printed in L. J., XVI., 61, in the last six lines of paragraph 2 and in paragraph 3, *i.e.* from "(videlicet)" to "as he thinks fit," and marked to come in in the middle of Lady M. Fenwick's examination. [Read this day, and Duchess of Norfolk examined upon it. MS. Min. *See* Notes above, p. 288.]

(*k*)[4] Mrs. Elizabeth Lawson's Examination on the same subject on 7th Jan. *Marked* No. 2. *Ib.* 61–2.

(*k*)[5] Duchess of Norfolk's Examination on the same subject, on 7th Jan. *Marked* No. 3. *Ib.* 62–3. The paper has pencil marks in the margin, probably in E. Monmouth's hand ; an identical sign is placed against the passages "I never had any papers but from my Lord Monmouth" and "but did desire my Lord I might have them in writing because of the badness of my memory," with the word "Contradiction" ; and against the passage "She said it was her Grace's own writing" is the pencil note "contradicted by former (?) oath." On the back are pencilled the questions "Whether either saw him or heard of

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him before that time," and "Whether he had given the like information to the Duke of Norfolk." These were questions put by E. Monmouth to Capt. Smith on 11 Jan. *See* Notes above, p. 290.

(*k*)[6] Mrs. Margaret Symons' Examination on the same subject, on 7th Jan. *Marked* No. 4. *Ib.* 63.

(*k*)[7] John Robins' Examination on 9th Jan. *Marked.* 5. *Ib.* 63.

(*k*)[8] Matthew Smith's Examination on 11th Jan. *Marked* No. 6. *Ib.* 63–5. The passage on p. 64, line 17; from bottom, reads "desired me to communicate it to Mr. Vernon" and at the end of the Examination are these words, expunged "Being asked what the services are which he says he did fifteen months since, says, he discovered where arms were."

(*k*)[9] Autograph letter from Duchess of Norfolk to Lord Keeper, praying to be heard if Lord Monmouth has disowned or contradicted anything she has said. Read 11 Jan. *Ib.* 65.

(*k*)[10] Examination of Matthew Smith on 13th Jan. *Marked* 1. *Ib.* 64.

(*k*)[11] Mr. George Porter's Examination on 13th Jan. *Marked* 2. *Ib.* 65.

(*k*)[12] Simon Harcourt's Examination on 13th Jan. *Marked* 3. *Ib.* 65–6.

(*k*)[13] Robert Monckton's Examination on the 13th Jan. *Marked* 4. *Ib.* 66.

(*k*)[14] Mrs. Katherine Bragg's Examination on 13th Jan. *Marked* 5. *Ib.* 66–7.

(*k*)[15] William Gwatkin's Examination on 13th Jan. *Marked* 6. *Ib.* 67.

(*k*)[16] Elizabeth Norton's Examination on 13th Jan. *Marked* 7. *Ib.* 67–8.

(*k*)[17] John Tatnall's Examination on 13th Jan. *Marked* 8. *Ib.* 68.

(*k*)[18] Mr. Charles Reed's Examination on 13th Jan. *Marked* 9. *Ib.* 68–9. *Endorsed* These were read to them 14. "The Little Armoury" (p. 69, l. 26) is given as "The little almonry."

(*k*)[19] Anne Tatnall's Examination on 13th Jan. *Marked* 10. *Ib.* 69. *Endorsed* like preceding paper.

(*k*)[20] Nicholas Baker's Examination on 13th Jan. *Marked* 11. *Ib.* 69. *Endorsed* like preceding paper; but there is a note at the foot, as follows :—Memo. Mr. Baker not appearing after this was writ from Mr. Blane's notes, it hath not been read to him.

(*k*)[21] Examination of John Cresset, Esq. on 14th Jan. *Marked* 1. *Ib.* 70.

(*k*)[22] Mr. Christopher Dighton's Examination on 14th Jan. *Marked* 2. *Ib.* 70.

(*k*)[23] Francis Moore's Examination on 14th Jan. *Marked* 3. *Ib.* 70–1.

(*k*)[24] Mrs. Elizabeth Coalebeek's Examination on 14th Jan. *Marked* 4. *Ib.* 71.

((*k*)[25] Mr. William White's Examination and Mrs. Norton's Re-examination on 14th Jan. *Marked* 5. *Ib.* 71–2.

(*k*)[26] Mrs. Hannah Solomon's Examination and Mr. Francis Moore's Re-examination on 14th Jan. *Marked* 6, 7. *Ib.* 72.

(*l*) 15 Jan. 1696–7. Holograph Petition of Mary, Duchess of Norfolk. Petitioner is informed that several witnesses have

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been produced by the Earl of Monmouth and examined before their Lordships with intention to defame Petitioner; and if any impression remains upon any one of their Lordships, Petitioner prays she may be admitted to vindicate herself from their reflections. *Signed* M. Norfolk. [Read this day. Nothing done on it. MS. Min. No entry in L. J.]

(*m*) 18 Jan. 1696–7. Letter from the Duke of Shrewsbury to the Lord Keeper, dated Eyford, 13 Jan. 1696–7, as follows:— My Lord, having received the commands of the House of Lords to lay before their Lordships what letters I received from one Smith in February last, or, in case I had kept none, then to acquaint the House with what I can remember was contained in them, I am very sorry not to be able so fully to comply with their Lordships' directions as I wish I could, for, having heard long since that this man did pretend to great merit for his discoveries, and had, on several occasions, in a very unhandsome manner complained of me, I did then endeavour to collect what letters he had sent me, that I might judge how his intelligence appeared when put together, for, as it came to me, I could make little of it. But I found I could retrieve so few, and those generally of an old date (when I had more value for his intelligence than I had afterwards), that I am almost certain I have none of those letters left which their Lordships desire to see. I shall therefore apply myself to give them the best account I can of what he did inform that is most material at that time, which I am the better able to recollect, because several things he then mentioned fell out so true, that I was surprised how he could know them and not more, till I understood he had his intelligence from one Huet, a youth that lived with Major Holmes's brother, I think, and was, about that time, often employed to wait upon Sir George Berkeley, by which means he had opportunities to guess or overhear particulars which otherwise I suppose he might not have been trusted with. I remember that in the winter Smith wrote very positively of an invasion intended from France, which was to break out at the arrival of the Toulon fleet, and that many gentlemen of quality and officers were sent from St. Germain's upon that design. He named Mr. Henry Brown, my Lord Montague's brother, at one time, at another Sir George Berkeley, Holmes, Counter and others. Then he gave hints of some great design which he should soon discover the bottom of, and afterwards grew more particular that it was to seize the King's person, and named Berkeley, Charnock, Holmes, Counter and others as employed in the villainy; and that at the same hour this was to be executed, a general rising was to be in all the counties of England. He was different in his accounts about the manner of seizing the King. Sometimes Mr. Latin's Lodge near Richmond was to be attacked, and the walls scaled by foot, whilst his Majesty was there. Sometimes an attempt of the like nature was to be made on Kensington House, and at other times the King was to be set upon, going to, or coming from hunting. Near to the day the assassination was intended, he was very earnest for money to buy a horse and equipage, upon which I desired Mr. Vernon to talk with him, to see if he knew of his own knowledge any person engaged in such a design; for being never able to bring anything in confirmation of what he asserted, from whom he

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had it, how he came by it, or at what time it was to be executed, I suspected either there was no truth in the story, or if there were, I might possibly set him out to be engaged in it. He gave Mr. Vernon no satisfaction upon discoursing with him, but proceeded in his promises to him that nothing could be attempted, but he would give him, or me, an account of it. When the whole was brought to light, and it appeared he was not enough in the secret to have prevented it, I intended, notwithstanding, to do something for him, and, at his own desire, concealed his name, to give him an opportunity, as he pretended, to apprehend Chambers. In the meantime, I had an account that in very public places, he began to threaten he would complain of me to the Parliament, whereupon I neither thought it safe nor decent to have more to do with him. What I received relating to the attempt on his Majesty's person or the invasion, I always gave the King an account of, whilst I was in town and able to wait on him, but, being much indisposed, I had his Majesty's leave to go into the country for a few days, where I remained till I was commanded back upon the happy discovery of that horrid design.

This, my Lord, is all that I can recollect on the subject their Lordships are pleased to command. I beg the favour it may be communicated to the House, and am,

My Lord,

Your Lordship's most faithful and humble Servant,

(*Signed*) Shrewsbury.

[Printed *in extenso*, but inaccurately, in Ralph's Hist. of England, Vol. II, p. 713, *Note*, quoted from Tindal's Rapin, Vol. XIV, p. 367, *Note*. Read this day. (M.S. Min.) *See* Notes above, p. 294.]

(*n*) Cover of preceding, marked with the numbers (Contents 24, Not Contents 26) of the Division on Jan. 18th. (MS. Min.)

(*o*) 22 Jan. 1696–7. Petition of the Lady Mary Fenwicke, as follows :—Whereas your wretched petitioner's unfortunate husband stands condemned by a bill of attainder, and that the King has thought fit to sign a warrant for the execution of the fatal penalty annexed to the said bill, whereby your petitioner is seized with the utmost disorder and distraction of mind. She has made applications to his Majesty, whose Royal clemency she hopes may incline, as his power does enable him, to relieve the afflicted. But there is nothing could give your distressed petitioner greater encouragement for success than the intercession of your Lordships. And since mercy is as inherent and inseparable to your Lordships as justice, she humbly implores your Lordships' powerful mediation, there being several instances of those who have fallen under the weight of a bill of attainder without experimenting the utmost severity of it. The greatest motive your petitioner can lay before your Lordships is, the happiness Sir John Fenwick had near two years since, both as a christian and a man of honour, to prevent a base and villainous design against his Majesty's person, the particulars whereof have been communicated to some noble peers, and a more exact account annexed hereunto, which she humbly desires may be taken as a part of this petition ; the truth of which your petitioner has witnesses to manifest, if they may be indemnified for so doing. May the merit of this action so far prevail upon your Lordships, as to importune and solicit

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his Majesty, out of his great elemency and tenderness, to spare the life of your petitioner's most unfortunate husband, and in the meantime your petitioner most humbly begs your Lordships to intercede with his Majesty to grant a reprieve for a week, by reason your petitioner's husband has not had any divine with him till three of the clock yesterday, nor have any of his friends or relations yet been suffered to go to him. May all the blessings of the mereiful attend your Lordships and your noble families, and may your petitioner, all her lifetime, acknowledge with all possible respect and gratitude, the unspeakable favours that your Lordships shall confer upon your most humble and most afflicted petitioner.

(*Signed*) Mary Fenwicke.

[Read this day and an Address made to the King for a reprieve. L. J., XV. 79.]

(*p*) 26 Jan. 1696–7. Petition of same, as follows :—Whereas your distressed petitioner has made her most humble acknowledgments to his Majesty for his great grace and favour in deferring the execution of her unfortunate husband. She thinks herself also obliged to return her most humble thanks to your Lordships who were pleased to intercede with his Majesty on his behalf. Your most afflicted petitioner does moreover lay before your Lordships the merits of that action, which is attested under Sir John Fenwick's own hand, whereby he had the happiness to save the King's life ; all which your petitioner's husband is ready to make out, if the witnesses may be indemnified for such misprision. And, if your petitioner's husband had no such merit as is thereby represented to your Lordships, yet the condition of a condemned person is such, that by perpetual imprisonment or banishment, all future dangers to his Majesty's person and government may be effectually prevented, as by his death. And therefore your petitioner humbly prays your Lordships to intercede with his Majesty to spare his life, which shall ever be acknowledged with all dutiful respect and gratitude by your most afflicted petitioner.

(*Signed*) Mary Fenwicke.

[Read this day and the question for the adjournment put and carried. L. J., XVI. 82.]

(*q*) 30 March 1697. Petition of Charles, Earl of Monmouth. Petitioner has for ten weeks last past been a prisoner in the Tower, and still continues under commitment there, by virtue of an Order of the House, and Petitioner, humbly submitting to their Lordships' pleasure therein, is extremely concerned he should in anywise incur their Lordships' disfavour. May it therefore please their Lordships (by reason of his long imprisonment, his indisposition at present, and some particular affairs that necessarily require his looking after them) [either to address the King on his behalf or]* to take what methods their Lordships shall think proper in order to his discharge from his confinement, as soon as their Lordships, in their great wisdom, shall think fit.

(*Signed*) Monmouth.

[Read this day and the Earl of Monmouth discharged. L. J., XVI. 140.]

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* These words in square brackets are struck through.

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1082. Nov. 27. Navy (State of the Nation)—Papers conneeted with an Enquiry into (1) the state of the Fleet, (2) Loss of ships from Ireland, (3) Refusal of Letters of Mart, &c. [The House having gone into eonsideration of the King's Speeeh of 20 Oct., and the State of the Nation, it was *proposed* to eonsider (1) The State of the Fleet the last Summer (2) The Bank of England (3) The management of the War; the Army abroad; the money carried out. *Moved*, to put the House into a Committee for debate. House adjourned during pleasure and put into a Committee, L. Ferrers in the Chair. *Moved* to take into consideration the state of the Fleet. To send to Sir George Rooke to give an account of what orders he has reeeived this summer. The Commissioners of the Admiralty to lay before the House an account of all the shipping of the nation, the condition of it and where it is. An account of the state and eondition of the Fleet. Newfoundland is lost; how it came to be lost is worth enquiry. The Commissioners of the Admiralty [to be sent to] for what orders have been given for preservation of our trade and plantations. *Proposed* to take care to reeover credit from what was said in his Majesty's Speeeh. The Commissioners of the Admiralty [to give] an account whether the number of ships be not suffieient to annoy the enemy, and what number of ships they shall think sufficient. What sum of money will put the Fleet into a condition to defend the kingdom. The eondition and state of the Fleet, and what number of ships are requisite for the security of the nation; what money is requisite to put the Fleet into a good eondition. On report, the House ordered (1) That the Commissioners of the Admiralty should give on 2 Dec. an aecount of what the number and condition of the Fleet is, either at sea or in harbour, and whether they coneeive it sufficient for the protection of England, Ireland, trade and the plantations, and should also send copies of all orders sent by them to the Main Fleet this year, until Lord Berkeley went to the Fleet: (2) That the Commissioners of the Navy Board should send in on 2 Dec. an account of the stores: (3) That Sir George Rooke should lay before the House on 2 Dee. copies of all the orders he received for the eommand and conduct of the squadron sent to Cadiz, and all letters and papers relating to that expedition from the time of his first orders until he left the eommand of the Fleet, with the times and places when he respectively reeeived the same: (4) That the House should be put into a Committee again on 2 Dec. to consider further of the State of the Nation. (MS. Min.; L. J., XVI. 21.)

28 Nov. Letter from Sir George Rooke (Paper *a*.) read, in relation to the Order of yesterday. *Sir G. Rooke* was called in and told by the Lord Keeper, by order of the House, that the Lords think fit to have the originals of the letters and papers laid before the House. (MS. Min.; L. J., XVI. 22.)

2 Dee. *Sir G. Rooke* delivered at the Bar two Papers and nine Books, pursuant to the Order of 27 Nov. (Papers *c*.). The *Commissioners of the Navy Board* delivered two paper Books (Papers *b*.). *Moved*, to send to the Commissioners of the Admiralty to give an aecount whether they had any intelligence of the privateers' design of going to Newfoundland or any part of the West Indies, and what care was taken to secure Newfoundland and our other plantations and trade in those parts against the enemy. *Ordered* aecordingly. *Ordered*, That the 9 Books delivered this day by Sir G. Rooke be kept by the Clerk, and that any Lord of this House may have reeourse to them in any room near this House in the presenee of the Clerk, and

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that the Clerk give Sir G. Rooke a receipt for the Books. On motion, a Committee *appointed* to consider of the Answers received this day from the Commissioners of the Admiralty, pursuant to Order of 27 Nov., and to have power to send for persons, books and records. *Ordered*, That some of the Commissioners of the Admiralty attend the said Committee to-morrow. *Ordered*, That the Commissioners of the Admiralty give the House an account of what effect the late Act for registering of seamen has had; and if there have been any obstructions, and what they have been, and what they can propose for remedying them. *Ordered*, That the further consideration of the State of the Nation be adjourned till the 5th inst. (MS. Min.; L. J., XVI. 28–9.)

3 Dec. (In Select Committee):—E. Rochester in the Chair. The Answer of the Commissioners of the Admiralty to the Order of the House of 27 Nov. is read. The Order read. *The Commissioners* are called in, and told that their Lordships having received advice that the King will be here immediately, they cannot proceed at present on the business, but they are sensible they have wasted a great while this morning, and therefore to-morrow, when they are met at 10 a.m., they will send to them to the Admiralty Office to come. (Com. Book.)

4 Dec. *Ordered*, That the 9 Books delivered by Sir G. Rooke and the other Papers from the Commissioners of the Navy Board be referred to the Select Committee. (MS. Min.; L. J., XVI. 31.)

Eod. die. (In Select Committee):—E. Rochester in the Chair. *Mr. Cooling* is sent to the Admiralty Office for some of the Commissioners to attend. Their Answer to the Order of 27 Nov. is read. *The Commissioners*, being come, are told that the House as well as the Lords of the Committee are not satisfied with their said Answer, conceiving it extremely short in both particulars. They desire to know what they can say to it. Then the said Order and Answer were read. *Sir George Rooke* and *Sir John Houblon* are called in. *Sir George Rooke:* In anything Sir. J. Houblon and I can inform, as to facts which occur to our memories, we shall give what satisfaction we can, but in other things we desire the Board may have your commands, and we shall obey. The Navy Board must give us a particular account of the provision before we can say when the ships in harbour will be ready. We cannot tell when ships will be ready, because we know not when we can have use of the docks. We appoint the properest ships for the occasion when we send any abroad. The deficiency of money and the funds have made it that four of the ships that were to be built, are not so yet. New ships may be built in slips, but old ones must be repaired in docks. Orders are given for repair of all our ships, and they will be so, if there be not deficiency of money. They desire the directions of the Committee in writing. They withdraw. The directions are put in writing, vizt., That the Answer of the Admiralty is very short to what was required by the Order of the Lords, and therefore it is now directed by the Lords Committees that the Commissioners of the Admiralty do give a more particular account in what condition the ships now at sea are, and whether, when they were set out, they were in thorough repair, or only in such repair as would enable them to perform the several expeditions they were sent upon; and, as to the ships in harbour, what repairs each ship may need, and in what time respectively they may be fitted for sea service. That they do particularly answer whether they conceive the Fleet of England be sufficient for the uses

1696. — No. 1082. mentioned in the Order of the 27 November last, their present Answer in their allegation of ignorance of the force of the enemy's fleet, or where it may be employed, being by no means thought a sufficient satisfaction. *Ordered*, That the Clerk attending their Lordships do send to the Commissioners of the Admiralty the directions given by their Lordships here enclosed, and that they be desired to return answer thereunto in writing as soon as conveniently they can. Adjourned till the 7th inst. (Com. Book.)

7 Dec. (In Select Committee). E. Rochester in the Chair. Sir G. Rooke's first Book of Orders is begun to be read and proceeded in to No. 129. *Ordered*, That the Clerk acquaint the Commissioners of the Admiralty that the Committee met this morning, and meet again on the 9th inst., and will be glad to know when they will be ready with an answer to the directions sent them on the 4th inst. Adjourned to the 9th. (Com. Book.)

9 Dec. (In Select Committee). E. Rochester in the Chair. *The Clerk* acquainted the Committee that he had attended the Commissioners of the Admiralty, and that they said they had sent out orders to enable them to comply with their Lordships' Order, and on the 9th inst. they would acquaint their Lordships whether they could comply with their Lordships' Order or with what part of it. *E. Rochester* acquainted the Committee that Sir John Houblon had been here this morning to attend their Lordships with their Answer to their Lordships' Order, but being sent for to the King, and the Committee not being ready to sit, they desired they might attend with it some other time. *Mr. Cooling* is directed to let the Commissioners know that they attend to-morrow with the said Answer. Adjourned till to-morrow. (Com. Book.)

10 Dec. (In Select Committee). E. Rochester in the Chair. Sir G. Rooke's first Book is read to No. 169. *The Commissioners of the Admiralty* deliver in an Answer to the last Order and also as to the Act for registering seamen and as to Newfoundland. They say they have sent orders to the Commissioners of the Navy Board to give account of the condition of the Fleet with all expedition, and when they are ready, they will attend with it. Their several Papers are read. *Sir George Rooke* says his Majesty has given Mr. Attorney General [command to] draw a Bill on the heads now read relating to the registering seamen. They withdraw. *Ordered*, That the papers relating to Newfoundland and the registering seamen be offered to the House, they not being as yet referred to the Committee. *Ordered*, That the Commissioners for the Navy and the Commissioners for registering Seamen attend on the 12th inst., in order to consider the remedying obstructions that have happened in executing the said Act. Adjourned till to-morrow. (Com. Book.)

Eod. die.—The two Papers reported to the House, and referred to the Select Committee. (MS. Min.; L. J., XVI. 35–6.)

11 Dec. (In Select Committee). E. Rochester in the Chair. Sir G. Rooke's first Book is proceeded in. The Book of letters and Orders of the Secretary of State is begun to be read to No. 49. Adjourned till to-morrow. (Com. Book.)

12 Dec. (In Select Committee). E. Rochester in the Chair. *Mr. Walker* delivers in a list of the Dutch Ships found in the Downs 25 April 1696, and of the Dutch Ships in the line of battle, which sailed with Sir G. Rooke from Spithead (*e*)[1]. *The Commissioners of the Navy* and *the Commissioners for registering Seamen* being called in, the

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paper relating to the said registering, delivered by the Admiralty, is read. *The Commissioners of the Navy* say this paper came from the Commissioners for registering Seamen, and was handed to them by the Admiralty. *The Commissioners for registering Seamen:* We gave in a memorial to the Admiralty, which extended further than this paper. As first for receiving money, which we can get neither from the colliers nor fishers. That no registered man be turned over or pressed. They deliver in copies of their letters to the Commissioners for the Navy, which are read. *The Commissioners for the Navy Board* give in a paper touching the registering seamen, which is read. They withdraw. The said papers are read again. *Memorandum:* That the Commissioners for the Admiralty be spoken with upon the first paragraph in their paper. The second article in their paper agreed to be a head for a Bill. The Commissioners for the Admiralty to be spoken with on the third article of the Commissioners for registering [in the] first paper. The third and fourth articles in the paper of the Commissioners for the Admiralty to be heads for a Bill. Adjourned to the 16th inst. (Com. Book.)

No further proceedings in the Committee or in the House took place till 26 Feb. 1896–7, when it was *moved* that the House take into consideration to-morrow the loss of the fleet bound to Topisham from Ireland. 2 March appointed. (MS. Min.; L. J., XVI. 106.)

27 Feb. House to consider the loss of the ships on 2 March. Message to Commons for leave for Mr. Vernon to attend. Mr. Bridgeman to attend with the abstract of a letter sent him by Mr. Vernon concerning the provision ships that lately went from Ireland. Sir G. Rooke, Sir John Houblon, Vice-Admiral Mitchell, Mr. Paul Bowens, and Mr. James Ball to attend on the 2nd inst. (MS. Min.; L. J., XVI. 107.)

2 March 1696–7. Order read for considering the loss of the ships that came from Ireland. *Mr. Vernon*, being called in, says the letter he is asked for is in the Speaker's hands. *James Ball* was called in and asked what he knew of the taking the provision ships from Ireland. He said: There were ships bound for Ostend. The last fleet that came to Plymouth was in January last. On Monday, 8 Feb., there came a packet of letters to my hand for Mr. Bowen. I sent them to him. He told me he acquainted Mr. Bridgeman with those letters that night. Next morning I brought him to Mr. Vernon. He delivered the letter to Mr. Vernon. He sent a copy of it to the Admiralty. It was an account of the privateers setting out. The fleet did not sail till the 8th, 9th or 10th, from Spithead; I cannot remember the day. The letter said their design was upon the butter fleet from Ireland and the *Queen of Spain*. Friday the 12th about 4 or 5 in the afternoon the ships were taken, 5 or 6 leagues this side of Dunkirk. *Mr. Paul Bowen* (sworn): I gave Mr. Vernon the letter the 9th. I received it the day before. I communicated the letter to Mr. Bridgeman. The original letter I left with him. *Vice-Admiral Mitchell* (sworn): I came from Spithead three weeks since. I was there when the provision ships came from Ireland. They came from Plymouth, &c. to Spithead. One of the masters came to see me. They went to the men of war and told them they would not sail with them. *William Bridgeman* (sworn) says he has a letter. *Q.* Did you send notice of this intelligence to Dover or any other [place]? *A.* No orders were sent till the 18th February, upon a letter from the Mayor of Dover. Mr. Bowen came to me about 10 or 11 at night. I desired him to acquaint the Govern-

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ment with it. He went to Mr. Vernon with it. The letter of advice was delivered and read. *Sir John Houblon* (sworn). Asked if he were present when a letter of intelligence about Dunkirk privateers [was read]. *A.* I cannot say I was present. I saw the letter at the Board. Asked what they did on this intelligence [? 9] Feb. *A.* I do not remember there was anything done on this. We did not know these ships were at Spithead, nor at Portsmouth, or that they wanted anything. If they had come to the Downs, there were men of war. We had no notice of them. *Moved*, That the Admiralty, by not timely communicating that intelligence they received have not done their duty to his Majesty, and are guilty of the loss of the fleet of merchants. *Mr. Vernon* was called in and delivered the letter.† *Ordered*, That the further consideration of this matter be resumed on the 5th inst., and all the Lords summoned to attend. (MS. Min.; L. J., XVI. 109.)

5 March. No proceedings recorded.

13 March. Further consideration of matter to be resumed on the 16th inst., and Mr. Bowen, Mr. Ball, and Capt. Glover to attend. (MS. Min.; L. J., XVI. 122.)

16 March. *Ordered*, That the Committee concerning the Admiralty be revived, to meet on the 18th inst. (L. J., XVI. 125.) The Order being read for resuming consideration of the matter, and a debate arising thereupon, *Moved* to call in Mr. Bowen, [and ask him] what account he can give of an establishment of an intelligencer between him and the Secretary's office; and whether those ships did not call at Dover.* *Moved*, To call in Glover and ask him whether these ships did call in at Dover or not, and how long they stayed there. *Mr. Alphonsus Glover* (sworn): Asked whether the ships did call in at Dover. *A.* They passed by Dover on Thursday about 6 or 7 o'clock at night. They stayed till next morning. A boat came aboard them. We rode at anchor off Dover. We came close by Dover. *Q.* Where were you attacked? *A.* Off Gravelines on Friday in the afternoon, we were attacked. I was aboard a vessel that loaded in Ireland and got off, the *Mayflower*. We passed by Dover. I waited on the man of war. I know nothing what they did. We were in our passage. The *Queen of Spain* we waited on in the Isle of Wight. I know nothing of any convoy. I came about from Ireland with the *Crown* to Plymouth. I was with all the fleet. I suppose we were about 4 or 5 miles from Dover. We go as the wind blows; we were in our way. At Dartmouth I put myself under the *Queen of Spain*. We were not in sight of the English coast when taken. *Mr. Bowen* was called in and asked whether Sir Cloudesley Shovell agreed with him to give intelligence. *A.* Yes; he did about two years since. I received the letter [on the] 8th February in the evening. I found Mr. Bridgeman and read him the letter. Next day I came to Mr. Vernon and gave him the letter. It was written by a very honest man, a merchant. It was reported to the King so, and I came to the King for what I laid out. I have a report from the Commissioners. I had a salary, but was not paid it. He delivered the report, which was read, being an account of the general services he had done. The letters delivered formerly were read. Mr. Vernon's letter. A letter to Mr. Paul Bowen. House *moved* to send to the House of Commons to give leave to the Commissioners of the Admiralty to attend. *Moved*, that the Admiralty, in not giving timely intelligence to the Irish and Topisham ships, are guilty

* Substituted for "did not stay some time at Dover on their way."

† Paper (*f*) below.

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of a high misdemeanour and neglect of their duty and the trust reposed in them. *Proposed* to ask the Admiralty what intelligence they received in relation to the sailing of the Topisham and Irish fleet, and what they did in pursuance thereof? Upon the intelligence they received why they did not send to the ports, and give the necessary orders thereupon? After debate, House adjourned. (MS. Min.)

17 March. *Ordered*, That it be referred to the Admiralty Committee (appointed 2 Dec. last), to enquire into the following particulars:— 1. Why the Toulon fleet was not intercepted last summer? 2. Whether cruisers have been appointed, according to the Acts of Parliament, and what care has been taken to interrupt privateers? 3. What the Commissioners of the Admiralty have done, in relation to the granting Letters of Mart? 4. Whether the officers of the fleet execute the instructions annexed to their Commissions? 5. What care has been taken by the Admiralty for bringing in the Sea Journals and examining thereof? 6. To enquire further into the matter of the loss of the ships that came from Topisham and Ireland. 7. To enquire why so many officers have been turned out of the fleet without trial? The Committee to meet presently. (MS. Min.; L. J., XVI. 126.)

Eod. die. (In Select Committee). L. Herbert in the Chair. *Ordered*, That the Commissioners of the Board of Admiralty and one of the Secretaries of the Admiralty attend on the 19th inst., with an account why the Toulon fleet was not intercepted last summer, and that they lay before their Lordships lists of the line of battle ships, of the cruisers and of the convoy ships from Christmas 1695, with the several stations of the cruisers and convoys. *Ordered*, That Sir Alexander Rigby attend the Committee on the 19th, and attend to-morrow at the Bar to be sworn. (Com. Book.)

18 March. (In Select Committee). L. Herbert in the Chair. *The* Commissioners of the Admiralty are called in. Sir J. Houblon and Mr. Bridgeman being come in, *Sir John Houblon* says the Commissioners say it will be necessary to examine, peruse and transcribe many papers to give the Committee the account ordered, and it will require ten days' time, but if it can be done sooner, it shall be, for they are preparing. He desires that what further is required may be given in writing. *Ordered*, That the Commissioners of the Admiralty lay before the Committee on the 22nd inst. an account of what intelligence they received from 8 Feb. 1695 to 1 June 1696 concerning the Toulon squadron, and what orders were given thereupon; and also give an account of the condition of the English Fleet at that time and their stations, what strength of ships they had in these seas and in readiness to put to sea. *Sir Alexander Rigby* (sworn), being asked concerning Letters of Mart, says that he is owner of many galleys for trade, which he built because the Admiralty did not take due care of convoys for Italy, as he was informed; that then the merchants traded on foreign bottoms, in which being deceived and disappointed, the traders to Italy had recourse to English-built ships called galleys, which and the hopes of having Letters of Mart for the same was the chief occasion of building such ships. That he has seldom till this winter been refused Letters of Mart, except for the *Herne*, which is above 50 guns, and he was refused a Letter of Mart for her about the time Sir John Houblon came into the Admiralty, and was forced to take one from the States of Holland, of which the said Sir John can give a more particular account. In the beginning of [the] winter he wanted Letters of Mart for the *Ormond*, *Massareene* and *John* galleys. His Solicitor told him he (the Solicitor) had enemies at the Admiralty, and that Letters

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were refused to some, though few days before Letters were given to the *Shrewsbnry* and the *Sarah*, trading galleys. Thereupon he went to the Admiralty for Letters for his three galleys, and gave it in himself in writing, upon which Sir Robert Rich told him, in a slighting and haughty manner, he needed not have brought but have sent it in, for they granted no Letters of Mart. His ships were then fitted to sail, and he thought it hard to be refused when others had it. Then, being withdrawn, he wrote to the Board for a Letter of Mart for the *John* galley, which went purely a-privateering, which they granted him for that ship, but refused for the others, because the King wanted seamen, and they would carry away too many seamen. Sir Jos. Herne told him [so]. Sir John Houblon said he should never have Letters of Mart for the *Herne* ship. The *Herne* has been again refused Letters this winter. He had 100 men on the *John* and but 80 on the other two, which were of the same largeness. He had Letters of Mart for the *John*. Sir Robert Rich said it was often the contrivance of the merchants to send forth ships a-privateering, and to bring home goods; that if he (witness) did so, he would have his ship searched and put his bonds in suit. He is but part owner of these galleys. [Sir Jos. Herne and Mr. Sam. Sheppard have been refused Letters of Mart.*] He will hereafter give in a list of persons that have been refused Letters of Mart, and he will bring in writing what he has now said. (Com. Book.)

20 March. (In Select Committee). L. Herbert in the Chair. The letter No. 122, of 14 Jan. 1695 is read, being from the Admirals to Sir George Rooke. It intimates that the Ministers seem apprehensive the Toulon squadron will be out very early. The letter from the Admiralty to Sir George Rooke No. 124, dated 3 March 1696, is read. *Memorandum:* That the Commissioners be asked (1) why, if they expected an insult from the French at Spithead, as appears by their letter to him of 3 March 1695, they ordered Sir G. Rooke to repair to the Downs with some of his ships, and to leave others of them at Spithead? The letter of 6 March 1695 No. 130 is read. *Memorandum:* That the Commissioners be also asked (2) why, having so many ships ready in the Downs for the Main Fleet, they were not sent to join Sir G. Rooke to intercept the Toulon squadron coming into Brest, you having had intelligence of his arrival off the Lizard the 22nd April 1696? And also (3) Did you ever give any orders for the Main Fleet in the Downs, or any part thereof, to proceed to meet Sir G. Rooke? These questions to be asked the Commissioners when they attend. *Ordered*, That the House be moved to send a message to the Commons, that such members of their House as are of the Admiralty attend the Committee. A letter of 2 May, 1696, from Sir G. Rooke to D. Shrewsbury is read. Whether they had any orders from the King that a squadron should be sent to Sir G. Rooke and command him to endeavour to intercept the Toulon fleet, they having certain intelligence they were coming to Brest? *Ordered*, That Sir Alexander Rigby attend on the 22nd inst. *Memorandum:* That, while the Committee was sitting, the E. Rochester, Chairman to the Committee for Trade, with the approbation of several Lords of that Committee, commanded me to let the Commissioners for Trade know, from their Lordships, that the House had addressed to the King, in relation to Instructions to be signed by his Majesty to the Governors of the Plantations in America, and that they were at liberty to lay the Instructions they had prepared for the King's Royal Signature before

* These words in square brackets are struck through.

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the Commissioners of the Treasury, notwithstanding the direction they had not to do the same until further Order. (Com. Book.)

22 March (In Select Committee). L. Herbert in the Chair. *Sir Alexander Rigby*, being called in, delivers in a list of persons who have been refused Letters of Mart, and of others ill-treated by the Admiralty. He also delivers in writing what he said on oath the last time he was before their Lordships; which papers are read. He says, the *John* galley has 24 guns, the *Ormond* 24 and the *Mazareene* 20. He offers a paper superscribed "remarks upon the Admiralty," which is read. He desires this paper may not be made use of to his prejudice. The paper is returned to him, and he is directed to bring proof of what he has said in relation to Capt. Pickering, named in the paper, and also of what he has said concerning the refusal of Letters of Mart to the galleys mentioned by him the other day. He is assured that he, and whoever else attends on this account, shall have the protection desired. *Ordered*, That Mr. Anthony Stretton, Mr. Anthony Forti and Mr. John Bateman attend the Committee on the 25th inst., and in the meantime appear at the Bar to be sworn. *Mr. Bridgeman* being called in, says Sir John Houblon is sick or he would otherwise have attended, and that the others of them are sick and one out of town; that the Board have sent an account of intelligence relating to the Toulon squadron; that the Orders required are transcribing; that the Board desires to know what sort of account their Lordships require of the cruisers, &c. He is asked what time the Order for the Fleet's sailing from Cadiz, &c. was communicated to them. He desires the orders of the Committee in writing, and he will acquaint the Board with them. *Ordered*, That the Commissioners of the Admiralty do, on the 25th inst., lay before the Committee an account at what time the Order for the Fleet's sailing from Cadiz was communicated to them, and also a list of his Majesty's ships in the Downs on the 11th of April last, and true copies of the Orders of the 11th and 15th April 1696 sent by them to Sir Cloudesley Shovell. *Ordered*, That Sir Joseph Herne may have leave to attend the Committee to give account concerning any Letters of Mart, and that the Lords may have for some time a book of the cruisers for the year 1696 laid before them by the Commissioners of the Admiralty. (Com. Book.)

25 March. (In Select Committee). L. Herbert in the Chair. *Mr Bridgeman* being called in, delivers in a list of the ships in the Downs on 11 April, 1696, and true copies of the Orders of the 11th and 15th April 1696 to Sir C. Shovell, and an account at what time the Order for the Fleet's sailing from Cadiz was communicated to the Commissioners of the Admiralty; and acquaints the Committee that the other Orders required are transcribing for their Lordships. The account of intelligence the Commissioners of the Admiralty received concerning the Toulon fleet was read. Two letters from Sir G. Rooke of 22 April 1696 to the Commissioners of the Admiralty and D. Shrewsbury are read, as also one of 23 April and 9 March. The account of the Fleet's sailing from Cadiz, delivered in this day, was read. *Mr. Bridgeman* is directed to attend to-morrow with the Orders formerly required. *Mr. Anthony Forti* (sworn) being asked what he knows of Letters of Mart being denied, says that, having received great losses from the French, he got a ship of 26 guns, called the *Margaret*, to trade for Newfoundland, and petitioned the Admiralty for a Letter of Mart. They told him they had resolved to give no Letters of Mart to traders, but if he would go as privateer, he might have them. They said Letters of Mart were only taken as a colour to secure their trade,

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and not to privateer. I told them I would take no more men than they had given me protection for, which were 40, and I would give them security for this. They gave me leave to come again. I did so often, but could have no answer. Afterwards, understanding that Captain Martin had got Letters, I attended again, but Sir John Houblon told me he had moved my business at the Board, but they had resolved not to grant me any. Afterwards, in June or July, upon Petition to the Queen, her Majesty ordered them to give reasons why they denied me, but instead thereof, they gave me Letters of Mart. By this delay in them he believes he was damaged 400*l.* or 500*l.* *Sir Alexander Rigby* said the Commissioners owned they never refused Letters of Mart to Newfoundland, Barbary, or Guinea, because our men of war went not thither, yet they refused Mr. Forti. *Mr. Forti* says that in May 1695 he bought a ship of the Commissioners of Prizes, called the *Lindsay*, of 22 guns. He designed her for the West Indies, and got a Letter of Mart. The ship was in Falmouth, but the loading was in London. The ship coming about, Capt. Dawes pressing some of my men (which the Letter of Mart ought to have secured), the rest, except six, ran away. To secure these six, they were put on board the *Smyrna Factor*, who gave six of his men in exchange. In this condition the ship put to sea, but being surprised by a storm, put into Portland, where for want of hands, she lost two cables and two anchors, which cost 155*l.* In that lamentable condition she put to sea again and recovered Plymouth Sound, but before she was in safety, two of the six distressed men were taken away, and the ship so left in imminent danger. Of the whole of this matter he drew a petition to the Commissioners of the Admiralty, being ready to prove the men impressed at Portsmouth were not for the King's service, but sold to an East India ship. This was the 31st December, and he attended them the greatest part of January, when they sat, but was not admitted to be heard, nor had any relief. It was formerly objected, when he wanted a Letter of Mart, that it was made use of only to secure men, but in this case it was of no use at all to him (Com. Book).

26 March. (In Select Committee). L. Herbert in the Chair. *The Lord Haversham* delivers in an abstract he has made of some of the letters relating to Sir George Rooke's return from Cadiz, which is read. The Order of 3rd March 1695 from the Admiralty to Sir George Rooke is read (No. 129). The three questions agreed to be asked the Admiralty the 20th inst. are read. *Mr. Bridgeman* being called in delivers in copies of the Orders between 14th Feb. and 1st June, as directed, which are read. *Mr. Bridgeman* is asked how the Order of 3rd March was sent to Sir George Rooke, but cannot give account. By a letter of 23 April, off Plymouth, Sir G. Rooke owns the receipt of the Orders of the Admiralty of 3, 6, and 24 March. *Mr. Anthony Stratton* (sworn), being asked what he had to say in relation to Letters of Mart, says he has often attended the Commissioners of the Admiralty for Letters of Mart for the ship *Jeffreys*, which carried 30 guns. The Commissioners refused him, though he found they gave to others. They told him he might apply to the King and Council. He did so, and was referred back to them, but they would give him none, but treated him with a little sourness. Attending them afterwards on another occasion, upon their asking him whether he was a merchant, he told them he had paid between 4,000*l.* and 5,000*l.* Customs in December and January. The application he made to them for Letters of Mart was in December and January last, and on Friday last they refused a Letter of Mart to a ship he and

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others are sending to Cails, richly laden, and from thence to the Indies. On Friday last, solicitation being made again for a Letter of Mart for the *Jeffreys*, it was granted, but, she being first gone as far as the Isle of Wight, it will be of no use. He says that 11 ships from Virginia, belonging to him and several merchants, being come to Kingsale, and application being made for a convoy for them, they were forced to stay there till the latter end of October before they could have a convoy, which carried them to Plymouth, where they stayed near a month for another convoy to the Downs. He believes the Customs of those 11 ships might amount to about 14,000*l*. He says he has goods, value 5,000*l*., on board for Holland, which stayed for want of a sufficient convoy. About November he solicited the Admiralty for cruisers, when he and other merchants expected 24 Barbadoes ships in the Soundings. He acquainted them the French were fitting out ships, he supposed to go in search of those merchants, but they slighted the intelligence and laughed one on the other, and Mr. Burchett, their Secretary, said tartly, "Perhaps the gentleman holds correspondence with the French." This discouraged him from giving further intelligence to them. After this he gave intelligence to the D. Devon, who received him civilly. *John Bateman* (sworn) being asked what he knows of the Admiralty's granting Letters of Mart to ships that have traded and been privateers, says he has taken out above 100 Letters of Mart. *Ordered* That Mr. John Bateman lay before the Committee with all convenient speed a list of such ships as he has known the Commissioners grant or refuse Letters of Mart to, since the time they refused Letters of Mart to the ship called the *Herne*. *Memorandum:* That if the Committee send for any Journals, they shall be given in on oath. That the House be moved for leave to the Committee to ask the following questions of Sir G. Rooke, which the Committee are of opinion ought to be on oath, and that the Committee may also ask what other questions they shall think fit to ask on his answers, and that he may be sworn to his Journals. *Memorandum:* That Sir Cloudesley Shovell's Journal, when desired, be only from the time he came into the Downs till the time Sir G. Rooke came there. Several questions were agreed to be asked Sir G. Rooke, but they remain in the Lord in the Chair's hand till the next meeting, when the House shall have been moved in relation to them. *Ordered* that the Commissioners of the Admiralty be desired to attend on the 29th. (Com. Book.)

Eod. die. L. Herbert reported to the House the certain Questions* to be asked Sir G. Rooke. *Ordered* that Sir G. Rooke give his Answer in writing, as soon as his health will permit. (MS. Min.; L. J., XVI. 137.)

29 March. (In Select Committee). L. Herbert in the Chair. The three Questions agreed on the 20th inst. to be asked the Commissioners of the Admiralty are read. *The Commissioners* are called in. They are asked whether they sent to Sir G. Rooke to Cadiz to return; at what time they did so; and, if they did not, then at what time they had the first notice that he was to return? A. They remember not that they sent any orders to return; they believe they never sent any. The Admiralty some time in March had notice from D. Shrewsbury. Believe it was the 24th of March. Q. How did you come to give

* These Questions are set out *in extenso* in L. J., XVI. 137 and again, together with Sir G. Rooke's Answers, in the Report of the Committee on 14 April. *ib.* 158.

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direction on 3 March to Sir G. Rooke to dispose himself, if you knew not then of his return? A. Believe it was a conjectural knowledge; they heard it abroad.—The paper delivered in by Mr. Bridgeman on 27 March is read, as also the Order of the Admiralty of 3 March 1695 in Sir G. Rooke's Book. This last Order was sent to Plymouth. Q. What steps did you take towards securing him in his return, or for intercepting the Toulon squadron? A. We cannot answer on memory, but shall, if we have the question in writing.—The Order of 3 March to Mr. Russell is read.—They are asked upon what grounds they countermanded by their Order of 15 April their Order of the 11th of the same month to Sir G. Rooke? They desire time to look into their books. They withdraw. *Ordered*, That the Commissioners of the Admiralty on the 31st inst. lay before their Lordships Answers to certain Questions.*

31 March. (In Select Committee.) L. Herbert in the Chair. *Mr. Bateman* delivers in a list of the ships to whom Letters of Mart have been given or refused; which is read. Some Questions are proposed to be asked the Commissioners of the Admiralty. The paper received from Mr. Bridgeman the 27th March is read. *Ordered*, That the House be moved that [a message be sent to the House of Commons to request that] Sir Joseph Heron, a member of their House may have leave to attend the Committee in relation to Letters of Mart.†. *The Commissioners of the Admiralty* are called in. They deliver in Answers to the Questions sent them at the last meeting, which are read. They are asked what the Direction was the King gave (which is limited in their Answer to the 2nd Question)? They say it was the King's Direction to Mr. Russell, and he signified it to the Board, and the Order (*sic*). They withdraw. They are called in again, and have their Answers returned them, to be signed by the Board and brought again by Mr. Bridgeman to the Clerk to-morrow. The Questions following were read to them, and they were directed to bring Answers to them on the 5th April.‡ (Com. Book.)

1 April 1697. (In Select Committee.) L. Herbert in the Chair. The Answers to the 7 Questions, being brought to the Clerk by Mr. Bridgeman, signed by the Commissioners, were read and the Clerk directed to make copies for the five Lords present. (Com. Book.)

5 April. (In Select Committee.) L. Herbert in the Chair. The 7 Questions and Answers, received 31 March, are read entire and afterwards begun to be read severally. *Mr Bridgeman* being called in, delivers in Answers to the 6 Questions last sent to the Admiralty, which are read entire. The Order of the Admiralty of 2 March 1695 to Mr. Russell is read. *Ordered*, That the Commissioners of the Admiralty lay before the Committee on the 9th inst. a copy of Admiral Russell's letter to them, dated 28 Feb. 1695, mentioned in their Order of the 2nd of March following to Admiral Russell. *Ordered*, That the Commissioners of the Admiralty lay before the Committee on the 9th inst. Answers in writing to the following Questions.§ (Com. Book.)

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* The 7 Questions that follow here are set out *in extenso*, together with the Answers of the Commissioners, in the Report of the Committee on 14 April. L. J., XVI. 154–5.

† See L. J., XVI. 145, 146.

‡ The 6 Questions that follow here are set out *in extenso*, together with the Answers of the Commissioners, in the Report of the Committee on 14 April. L. J., XVI. 156.

§ The 5 Questions that follow here are set out *in extenso*, together with the Answers of the Commissioners, in the Report of the Committee on 14 April. L. J., XVI. 157. The list of ships is similar to that on p. 328, but does not include the *Lincoln*.

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7 April. (In Select Committee.) L. Herbert in the Chair. The Questions and Answers (dated 5 April 1697) are read entire and severally.

9 April. (In Select Committee). L. Herbert in the Chair. *Mr. Bridgeman* is called in and told that the Committee expected only a gross account of what victuals each ship had, and not so particular a one as he had given the Lord in the Chair yesterday a specimen of; but since they have begun it, they have time given them to perfect it till Monday next. *Ordered* That the Commissioners of the Admiralty lay before the Committee on the 12th instant an Answer in writing to the following Question.* (Com. Book.)

10 April. (In Select Committee.) L. Herbert in the Chair. *Sir Joseph Heron* (sworn), being asked what he knows in relation to Letters of Mart, says he applied about May 1694 to the Admiralty for Letters of Mart for the ship *Herne*, of above 50 guns and 180 men, which they refused to him, though before and afterwards they gave Letters to some other ships, viz. the *St. Margaret* and *Upton* galley and *Blackham* frigate, in July. Upon this, viz., about June or July 1694, he applied to the Queen, and the Commissioners of the Admiralty were summoned before the Council. The Queen was inclined, as he was informed, he should have Letters of Mart. After this, they granted Letters of Mart to others. Then he petitioned them again in September for Letters of Mart, with another ship called the *Stratford* frigate, and Mr. Charles Peers, the owner of the said frigate, was before the Commissioners, and they seemed inclined, as deponent has heard from Mr. Bateman, to give Letters of Mart to the frigate, till one of the Commissioners asked if that ship was not in a former Memorial with the *Herne*, to which being answered that she was, they refused her also; and, finding it inconvenient for the *Herne* to go without Letters of Mart, deponent made his application by his friends in Holland to the States General for Letters of Mart for the ship, which they granted, he giving security of 2,000*l.* to answer their proportion of the prizes, if any were taken; and they also gave them permission to sell her prizes abroad, if she took any, answering their share to the Dutch Consul in the port where they should be sold. *Ordered* That Mr. Charles Peers and Mr. Bateman attend on the 12th inst. (Com. Book.)

12 April. (In Select Committee.) L. Herbert in the Chair. The House being set, and the Commissioners of the Admiralty nor their secretary attending with Answers to the late Questions sent them, a doorkeeper is sent to them to let them know they need not attend themselves till 5 p.m., only in the meantime to send their Answers. *Mr. Bridgeman*, being come, delivers in Answers to the Questions formerly sent to the Commissioners, and a copy of Mr. Russell's letter of 28 Feb. 1695-6 to the Commissioners, both of which are read. A letter from Sir George Rooke, with Answers to the Questions formerly sent him, is delivered in and read. (Com. Book.)

Eod. die p.m. (In Select Committee.) L. Herbert in the Chair. *The Commissioners of the Admiralty* being called in, the several Questions sent to them and Answers received from them are begun to be read. Question 1 and Answer read. *Mr. Priestman* says they meant only by the "Fleet of England" (in their Answer) the English Fleet. They desire that what they say may not be taken as the Answers of the Board. They withdraw. *Ordered* to report the Questions and Answers specially, for that, they declaring they did not think themselves

* The Question that follows here is set out *in extenso*, together with the Answer of the Commissioners, in the Report of the Committee on 14 April. L. J., XVI. 158.

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13 April. (In Select Committee.) L. Herbert in the Chair. The Questions to the Admiralty and their Answers are begun to be read and considered severally, and they and the Questions and Answers to and from Sir George Rooke to be reported specially. Adjourned to 2 p.m. (Com. Book.)*

14 April. (In Select Committee.) L. Herbert in the Chair. Adjourned till to-morrow. (Com. Book.)—No further proceeding in Committee. *Eod. die* report made to the House, and proposed to adjourn the consideration to another time. (MS. Min.)

15 April. The House ordered Sir George Rooke's Books and Papers to be delivered back to him. (L. J., XVI. 161.) The Papers are as follows:

(*a*) 28 Nov. 1696. Letter, of date, from Sir G. Rooke. Has received their Lordships' Order for copies of all Orders received by him for the command and conduct of the squadron he sailed with to Cadiz, and of all letters and papers relating to that expedition from the time of his first Orders until he left the command of the Fleet, with the times and places when he received the same. The papers required are so voluminous that they cannot be transcribed in less than a month, but he will obey their Lordships' commands with all the expedition he can. [Read in C. W. H. this day. MS. Min.]

(*b*) 2 Dec. Two Paper Books, containing an account of the Stores, delivered by the Navy Board this day, pursuant to Order of 27 Nov. (MS. Min. *See also* Notes above, p. 302.) These Books are as follows:—

(*b*)[1] An account of the principal new and serviceable provisions remaining in store at his Majesty's several Dockyards on the days undermentioned, collected from the Storekeepers' General Abstracts or Balance of the Receipts and Issues of Stores, viz., at

Deptford,	on 30 June	1696.
Woolwich	„ 30 Sept.	„
Chatham	„ 31 Aug.	„
Sheerness	„ 31 July	„
Portsmouth	„ 30 Sept.	„
Plymouth	„ 30 June.	„

It gives an account of the brimstone, sails, canvas, &c., cordage and cable, anchors, oil, pitch and tar, &c., wood and timber, masts and spars, in stock at the above dates, and also the hemp and tar at Chatham, Woolwich and Portsmouth on 21 Nov.

* The House this day ordered the Committee to report to-morrow. L. J., XVI. 151.

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1696, 104 tons 3 cwt. of the former, and 122 lasts 5 barrels of the latter. *Signed* R. Haddock, E. Dummer, J. Sotherne, Cha: Sergison, Tho: Willshaw, D. Lyddell, John Hill. *Dated* Navy Office, 2 Dec. 1696. *Marked* No. 1.

(*b*)[2] Same as to Deptford and Chatham on 1 July, and as to Portsmouth on 1 October. Gives hemp and tar at Chatham, Woolwich and Portsmouth, on 21 Nov. 1696, as 50 tons 18 cwt. of the former and 11 lasts, 11 barrels of the latter. *Signed* and *dated* as preceding. *Marked* No. 2.

(*c*) 2 Dec. Papers presented by Sir George Rooke from the Admiralty this day, in compliance with Order of 27 Nov., viz. :—

(*c*)[1] 2 Dec. Paper entitled "Copies of all Orders sent to the Main Fleet this year, until the Lord Berkeley went to the Fleet." *Dated* Admiralty Office, 2 December 1696. Examined, Wm. Bridgeman. *Endorsed* "These Papers were received from Sir Geo. Rooke at the Bar from Admiralty 2 Dec. 1696. Nine Books were delivered at the same time." *Marked* 1. It comprises Admiralty Orders, ranging from 8 Jan. 1695–6 to 30 April 1696, to the following effect :—

(1.) 8 Jan. 1695–6, to Admiral Russell, to appoint a Flag Officer to reside at Chatham while the Fleet is fitting out, and transmit weekly accounts to the Admiralty. *Signed* John Lowther, Henry Priestman, Robert Austen, Robert Rich. *Countersigned* Josiah Burchett.

(2.) 8 Jan. 1695–6, to John, Lord Berkeley, Admiral of the Blue, as follows :—Whereas this Board have thought it necessary for His Majesty's service that, in order for the fitting out the ships designed for the Fleet in the Channel this year (a list whereof is hereunto annexed), the following particulars should be strictly observed, for the more speedy and effectual despatching the said ships for the sea, viz. : (1) That no captain be absent from the ship under his command, but by leave in writing from this Board, or the Flag-Officers upon the place, and that, when any such leave is given, the same shall not exceed six days, upon pain of being cashiered. (2) That none but commission officers be employed in pressing in boats or vessels out of sight of their respective ships, and none under the degree of a warrant officer in boats or vessels in sight of their ships, and that the oldest lieutenants be employed upon that service. (3) That all officers who are sent to press be acquainted that, if they discharge men fit for service, or take any money for exchanging, discharging, or releasing any when pressed, or which ought to be impressed, they shall be cashiered and forfeit all their pay due in his Majesty's service to the Chest at Chatham. (4) That tickets be in force to the 20th of Feb. next, and no longer, and that none be taken notice of but what are signed, by the captains to the said 20th of Feb., and afterwards by a Flag Officer. (5) That, if any men are entered in the country, either by a magistrate or common officer and are pressed coming up to town, they be returned to the ship they were first entered for, bringing sufficient vouchers they were coming into the service. (6) That all vessels employed for impressing men for the Fleet be back with their ships by the 30th of March next, and that the officers who command the said vessels be directed, upon the penalty of being cashiered,

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not to impress or entertain any men who are not of sufficient age, and of such strength of body, as may render them fit for his Majesty's service at sea, that so the ships of the future may not be pestered with boys and distempered persons. (7) That in all protections and tickets the men be described as to their age, size, and coloured hair, and that no protections or tickets be of force which are scratched or interlined. (8) And whereas we have given directions to the Navy Board to pay the wages, bounty-money, and conduct-money of the press-gangs which may not come time enough to their ships to receive the same to the commanders of the said ships, or such persons who shall be legally empowered by the said press-gangs to receive the same, and also directed the commanders of the ships employed as convoys or cruisers to entertain and bear supernumeraries for the Fleet to the tenth of May next, and receive all such men as shall be delivered to them from any of the tenders on the Fleet, and to dispose of them to their proper ships, upon meeting with them, your Lordship is hereby required and directed forthwith to give such orders to the several commanders of his Majesty's ships of the Fleet, and make such publication thereof as you shall judge most proper for the effectual putting in execution what is before directed for the despatch of his Majesty's service. *Signed* J. Lowther, H. Priestman, R. Austen, R. Rich. *Countersigned* Wm. Bridgeman.

A List of the ships mentioned in the above said Order :—

Rate.		Rate.	
1. *Britannia*, *St. Andrew*, *London*,	Chatham.	3. *Edgar*, *Elizabeth*,	Chatham.
2. *Albemarle*, *Duchess*,	Chatham.	*Expedition*,	Portsmouth.
Royal Katherine,	Nore.	*Hampton Court*,	River.
St. Michael, *Ossory*, *Sandwich*, *Burford*,	Chatham.	*Kent*,	Portsmouth.
Captain, *Content prize*,	River.	*Lenox*,	Soundings.
Cumberland,	Portsmouth.	*Monk*,	Portsmouth.
		Monmouth, *Montague*,	Chatham.
		Norfolk, *Northumberland*,	Portsmouth.
		Royal Oak,	Chatham.
		Resolution, *Restoration*,	Portsmouth.
		Suffolk,	Chatham.

(3.) 19 Jan. 1695–6, to Capt. Coall, Commander of H.M.S. *Dreadnought*, Spithead, ordering him to take under his command the *Defiance* (if ready) and the *Berwick*, and proceed to Cadiz to join the Mediterranean fleet under Sir George Rooke; and if any Dutch men of war bound to the Straits are at Spithead, he is to sail in company with them, and also to convoy any storeships at Portsmouth or Spithead, bound to the Straits, which may be ready to sail. *Signed* E. Russell, H. Priestman, J. Lowther. *Countersigned* W. Bridgeman.

(4.) 24 Jan. 1695–6, to Capt. Baron Wild, Commander of H.M.S. *Northumberland*, Portsmouth, ordering him to take under his command the *Mary* and *Berwick*, and proceed to Cadiz, &c.,

as in preceding Order to Capt. Coall; but in case Capt. Fairborne, Commander of the *Victory*, shall arrive at Spithead with the *Devonshire* and *Defiance* from the Downs before Capt. Baron Wild sails, the latter is to place himself under his orders. *Signed* E. Russell, H. Preistman, R. Rich. *Countersigned* J. Burchett.

(5.) 24 Jan. 1695–6, to Capt. Fairborne, Commander of H.M.S. *Victory*, Downs, ordering him to proceed with his own ship and the *Devonshire* and *Defiance* to Spithead, convoying all ships bound thither, and there take under his command the *Northumberland*, *Mary* and *Berwick*, if not already gone, and proceed with them and the vessels from the Downs to Cadiz, or follow them thither if already gone. The rest as in preceding two Orders. *Signed* and *countersigned* as preceding.

(6.) 27 Jan. 1695-6, to the Chief Flag Officer or the Commander-in-Chief of the ships at Chatham for the time being, to cause such ships as are fitting out for service in the Channel to be hastened to Blackstakes as fast as they are ready, and thence to the Nore. *Signed* H. Preistman, R. Rich, J. Houblon. *Countersigned* J. Burchett.

(7.) 28 Jan. 1695–6, to John, Lord Berkeley, to cause absent officers to join their ships at Chatham in view of the Court Martial ordered there the beginning of the following week on the loss of the *Royal Sovereign;* and, in regard to the additional quantity of water cask proposed in his Lordship's letter of 23 inst., to consider with the Flags and Captains the quantity of provisions each ship is to receive for this summer's service, and what proportion of water cask may be necessary. *Signed* E. Russell, H. Preistman, R. Austen, R. Rich. *Countersigned* W. Bridgeman.

(8.) 23 Feb. 1695–6, to Henry Greenhill, Esq., Commissioner of H.M. Navy at Portsmouth, to use all possible despatch in putting the ships now fitting out in Portsmouth harbour into a condition for the sea, employing workmen constantly both night and day, and directing their officers to give constant attendance, it being of greatest moment that the ships should be at sea as soon as possible; and those having least work to do on are to be first despatched. Ships, as they are ready, are to repair immediately to Spithead to take in their stores and provisions, and to be manned out of any merchant ships there, but without putting them in hazard by taking many men from them; and they are then to proceed to the Downs without the loss of a moment's time, tiding it thither if the wind shall not be fair, and put themselves under the orders of the Commander-in-Chief there; and if they require men before they get out of the harbour, they are to take them from the merchant ships there. *Signed* H. Preistman, R. Austen, J. Houblon. *Countersigned* J. Burchett.

(9.) 23 Feb. 1695–6, to the Commander-in-Chief at the Nore, to order all H.M. ships at the Nore to repair without the loss of a moment's time to the Downs, and put themselves under the orders of the Commander-in-Chief there. The ships are to be manned out of one another, and from merchant ships at the Nore, taking care to leave a sufficient number of hands on board the latter for their riding safely in port, and are to sail as fast as they are ready, without staying for each other. *Signed*

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H. Preistman, R. Austen, R. Rich. *Countersigned* J. Burchett.

(10.) 22 Feb. 1695–6, to Lord Berkeley, or, in his absence, the Chief Flag Officer in the River Medway, to proceed to the Downs, and take command there, keep the ships in constant readiness for service, and order two ships to cruise northward of the South Foreland, to give him timely notice of any attempt from the enemy. Any supernumerary men in any ship are to be distributed throughout the Fleet to the best advantage. *Signed* E. Russell, H. Preistman, R. Austen, R. Rich. *Countersigned* J. Burchett.

(11.) 22 Feb. 1695–6, to Capt. Fairborne, Commander of H.M.S. *Victory*, Downs, to remain in the Downs, notwithstanding any former orders, and to take command of all ships there, and of those arriving from Spithead and Plymouth, and keep them all at the Downs in a constant posture of defence, manning them out of the merchant ships in the Downs to their highest complements; and he is also, in case a Flag Officer does not timely arrive, to keep them in constant readiness for sea service, and to send immediately two proper ships to cruise to the westward, to give him notice of any ships of the enemy they may discover, so as to prevent any surprise. *Signed* E. Russell, H. Preistman, R. Austen, R. Rich. *Countersigned* J. Burchett.

(12.) 22 Feb. 1695-6, to the Commander-in-Chief at Spithead. Notwithstanding any former orders, he is immediately to cause all men of war at St. Helens or Spithead to be manned to their highest complements out of the merchant ships there, and also to take as many men out of the latter as the men of war can conveniently receive without thereby disabling the merchant ships from riding in safety at Spithead or going into Portsmouth harbour, and he is to proceed with the men of war to the Downs, tiding it if the wind be not fair, and place himself under the orders of the Commander-in-Chief there; and he is likewise to admonish all merchant ships at Spithead or St. Helens to repair into Portsmouth harbour, for their better security from any attempts by the enemy. *Signed* H. Priestman, R. Austen, R. Rich. *Countersigned* J. Burchett.

(13.) 22 Feb. 1695–6, to Geo. St. Loe, Esqre., Commissioner of the Navy at Plymouth, to order all men of war there, whether under orders for foreign convoys or not, that are ready for sea, to proceed at once to the Downs; and the like orders as in preceding Order are given as to manning them out of merchant ships. *Signed* and *countersigned* as in No. (11) above.

(14.) 22 Feb. 1695–6, to Capt. Price, Commander of H.M.S. *Centurion*, Yarmouth, to proceed to the Downs. *Signed* and *countersigned* as in No. (11) above.

(15.) 24 Feb. 1695–6, to the Chief Flag Officer in the River Medway, or to the Commander-in-Chief there or at the Nore for the time being, to use the utmost diligence to hasten the departure for the Nore, and thence for the Downs, of the ships fitting out at Chatham, and to take especial care that the ships that shall be from time to time at Blackstakes or at the Nore should, before they sail, be in a condition to make the best defence that is possible. *Signed* and *countersigned* as in No. (12) above.

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(16.) 26 Feb. 1695–6, to Capt. Munden, Commander of H.M.S. *Albemarle*, Chatham, to repair on board one of his Majesty's ships at Blackstakes, and take chief command of all the ships in the Medway and at the Nore, causing those ships which are in the greatest readiness to be manned from the others and provisioned for sea, and hastening them to the Downs to join Admiral Russell there; and to report daily his proceedings and what ships arrive at Blackstakes and sail from thence to the Downs. *Signed* as in No. (12). *Countersigned* W. Bridgeman.

(17.) 26 Feb. 1695–6, to Capt. Aston, H.M. Master Attendant on Float. Whereas the following vessels, viz. :—

Victory,	*Bonadventure*, hired,
Devonshire,	*Elizabeth*,
Defiance,	*Loyal Merchant*,
Woolwich,	*Berwick*,
Colchester,	*Monk*,
Newcastle,	*Mary*,
Captain,	*Dreadnought*,
Montague,	*Kent*,
Royal Oak,	*Northumberland*,
Hampton Court,	*Southampton*,

are now in the Downs, Capt. Aston is to make strict enquiry what tenders are now in the River Thames belonging to them, and order them without delay to the Downs with their press-gangs and what men they have, without staying for any others. Not *signed* or *countersigned*.

(18.) 26 Feb. 1695–6, to Capt. Foulkes, Commander of H.M.S. *Resolution*, Portsmouth, to repair with his ship to Spithead and take chief command of all H.M. ships there and in Portsmouth harbour, getting those in the harbour out to Spithead and thence to the Downs, in same manner as ordered in No. (16) above, *mutatis mutandis*. *Signed* and *countersigned* as in No. (12) above.

(19.) 27 Feb. 1695–6, to Capt. Simon Foulkes, Commander-in-Chief at Spithead and Portsmouth, to take all imaginable care to defend the merchant ships at Spithead and thereabouts, and to hasten the fitting out of the King's ships in Portsmouth harbour, manning them from the merchant ships at Spithead, St. Helens, Cowes, or other places, as ordered in No. (12) above; and he is immediately to order all merchant ships to repair into Portsmouth harbour, to prevent any danger from the enemy. *Signed* and *countersigned* as in No. (12) above.

(20.) 27 Feb. 1695–6, to Capt. John Munden, Commander of H.M. ships in the Medway and at the Nore, to repair aboard H.M.S. *London*, at the Nore, where Orders sent to him from the Admiralty may be sooner despatched than at Blackstakes; but he is frequently to repair to Blackstakes and up the Medway to forward the ships fitting out there, manning them from merchant ships, as directed in preceding Orders. *Signed* H. Preistman, R. Austen, J. Houblon. *Countersigned* J. Burchett.

(21.) 28 Feb. 1695–6, to Capt. Foulkes, Commander in-Chief at Spithead and Portsmouth harbour, to cause the *Kent* and *Dreadnought*, if at Spithead and in want of men, to be manned out of merchant ships at Spithead, St. Helens, Cowes or there-

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abouts, or the men of war in Portsmouth harbour, and to proceed to the Downs. *Signed* H. Preistman, R. Austen, R. Rich, J. Kendall. *Countersigned* J. Burchett.

(22.) 28 Feb. 1695–6, to Capt. John Munden, Commander-in-Chief at the Nore and the River Medway, on consideration of his letter of 27 Feb., ordering him to man the ships at the Nore, and those coming from the Thames and Medway, to their middle complement, and send them to the Downs; and also to hoist a distinction pendant on board the ship where he shall be from time to time. *Signed* H. Preistman, R. Austen, R. Rich, J. Houblon. *Countersigned* J. Burchett.

(23.) 1 March 1695–6, to Capt. Foulkes, Commander of H.M.S. *Resolution*, and Commander-in-Chief at Spithead and Portsmouth, to make his ship ready for sea and proceed at once to the Downs, together with the *Owner's Love* fireship, if not already despatched thither; and whereas it is now intended that the great ships at Spithead and Portsmouth should be first despatched, there being not so great occasion for small ships with the Fleet, he is to take care that the 3rd Rates most nearly ready, as also the *Dover*, be manned out of those in harbour that are backwardest, or any of the small frigates there or at Spithead, and specially out of the *Lenox* and *Experiment*, and hastened to the Downs as soon as possible; and he is to take what men can possibly be spared from the merchant ships at Cowes, he having stated in his letter of yesterday that he had not taken any yet. He is likewise to despatch the *Firebrand* fireship to the Downs as soon as possible, and when he himself sails he is to leave Capt. Dilke, Commander of H.M.S. *Cumberland*, in command at Spithead and Portsmouth harbour, with orders to send on the 3rd Rates to the Downs as soon as ready, without staying for one another. *Signed* H. Preistman, R. Austen, J. Kendall. *Countersigned* W. Bridgeman.

(24.) 2 March 1695–6, to Rt. Honble. Edward Russell, Admiral and Capt. General of H.M. Navy and Fleet, as follows:—In pursuance of his Majesty's pleasure, signified to this Board at our attending him last night at Kensington, you are hereby required and directed, when wind and weather shall oblige you to come from the French coast with the fleet under your command, to leave such a strength there as you shall judge sufficient to prevent those French men of war getting out of Flemish Road which by your letter of the 28th of last month you acquaint us were there, as also to keep in the transport ships which you give us an account are at Calais, and to protect those which are coming from Holland hither with troops from any insults the enemy may otherwise attempt to make on them. *Signed* H. Preistman, R. Rich, J. Kendall. *Countersigned* J. Burchett.

(25.) 2 March 1695-6, to same, to send the following ships:—

Coronation,	*Dunwich*,	
Ruby prize,	*Solebay*,	
Mermaid,	*Wren*, pink,	
Milford,	*Martin*,	ketches.
Prince George,	*Quaker*,	
Smyrna Factor,	*Roe*,	
Unity,	*Joseph*, hired,	

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and also the *Assistance*, if she is not yet ready for sea, to the Nore, they taking with them as many men out of the merchant ships in the Downs as can be spared, and also as many men above the middle complements of the men of war there as they can; and these, together with the crews of the aforesaid ships, are to be used to man the great ships fitting out at the Nore, his Majesty having signified his pleasure that the great ships which are fitting out shall be manned out of such of the smaller as are of least use. And as it is necessary that some clean ships should be sent to cruise in the Soundings as soon as may be, Admiral Russell, as soon as the *Resolution*, *Edgar* and *Cumberland*, or any two of them, shall join him, is to order the *Anglesey*, *Portland*, *Dover*, and *Mary* galley to the Soundings, to cruise there, calling for the *Dover* at Spithead and the *Foresight* at Plymouth. The *Resolution* and *Cumberland* are now at Spithead, ready to proceed to him, and the *Edgar* is ordered to join him as soon as she has convoyed the transports with which she sailed from the Nore safe into the Goree. In case none of the Commanders of the ships ordered to the Soundings are fit to take the command in chief of them, Admiral Russell is to appoint the most proper person to that charge. *Signed* and *countersigned* as in No. (24).

(26.) 2 March 1695–6, to Capt. Munden, Commander of H.M.S. *Albemarle*, and Commander-in-Chief in the River of Thames and the Nore, to man any fireships, bomb vessels, or brigantines that may come to the Nore out of the great ships there, and send them at once to join the Fleet at the Downs, and, if Admiral Russell is not there, to go over to the coast of France and look for the Fleet between Calais and Dunkirk. *Signed* and *countersigned* as in No. (24).

(27.) 3 March 1695–6, to Admiral Russell. The *Dover* and *Foresight* having been ordered, as soon as ready, to proceed and cruise from ten to twenty leagues westward of Scilly, between the westward and the south west, and to look out for the fleet coming from the Straits under Sir George Rooke, and give them an account of the bearings of the land, the ships ordered to the Soundings are to proceed directly thither, and join the *Dover* and *Foresight*, if there, and then cruise in such other station and for so long a time as Admiral Russell shall think the most proper for protecting the trade expected home, carefully looking out for Sir George Rooke, to give him an account of the bearings of the land, and the inclosed Orders. *Signed* and *countersigned* as in No. (24).

(28.) 3 March 1695–6, to Colonel Jacob Richards, to take charge of the following bomb vessels :—

Comet,	*Furnace*,
Blast,	*Thunder*,
Serpent,	*Basilisk*,
Carcase,	*Terror*,
Granada,	

ordered to be immediately fitted out and sent to Admiral Russell, use his utmost diligence in the despatch of them, and sail to-morrow, if possible, with four or more of them to the Nore, and thence, so soon as the Commander-in-Chief shall have named them, to the Fleet under Admiral Russell; and he is to apply to Capt. Aston, Master Attendant on Float, to

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whom orders have been given to supply him with men from the yards and ships in ordinary in the River to carry the bomb vessels to the Nore. *Signed* and *countersigned* as in No. (24).

(29.) 3 March 1695–6, to Capt. Simon Foulkes, Commander of the *Resolution* and Commander-in-Chief at Spithead and Portsmouth, to repair at once with his ship to the Downs, and thence to the fleet under Admiral Russell; and he is to leave Capt. Dilkes, Commander of the *Cumberland*, to execute the orders not yet executed, with instructions to follow to the Downs and the Fleet as soon as his ship is ready, leaving Capt. Fowlis, Commander of the *Restoration*, to execute the orders then left unexecuted. But the *Cumberland* is to precede Capt. Foulkes if ready first. *Signed* H. Preistman, R. Rich, J. Kendall. *Countersigned* W. Bridgeman.

(30.) 3 March 1695–6, to Capt. Crosse, Commander of H.M.S. *Dover*, at Spithead, to proceed, as soon as ready, and cruise from ten to twenty leagues westward of Scilly, between the west and the south west, look out for the fleet from the Straits under Sir Geo. Rooke, give him an exact account how the land bears, and deliver him the enclosed Orders. He is then to cruise in the said station till joined by the *Foresight* and some men of war to be sent thither by Admiral Russell, and then to put himself under the orders of their Commander-in-Chief. During his cruising, he is carefully to look out, and, on discovering any number of the enemy's ships, to repair into port and send an express to the Admiralty, remaining there till further order. *Signed* and *countersigned* as in No. (24).

(31.) The like Order at the same time to Capt. Walker, of the *Foresight*, at Plymouth.

(32.) 3 March 1695–6, to Capt. Munden, Commander-in-Chief at Blackstakes and the Nore, to man immediately, and send off to the Downs, any bomb vessels now fitting out in the River of Thames which shall arrive at the Nore. *Signed* and *countersigned* as in No. (24).

(33.) 3 March 1695–6, to the respective Lieutenants or Chief Officers commanding the tenders belonging to H.M. several ships, to sail with such men as they have and join their respective ships by the 15th of the month. *Signed* as in No. (24). *Countersigned* J. Bridgeman.

(34.) 3 March 1695–6, to Sir George Rooke, Knt., Admiral and Commander-in-Chief of the fleet in the Mediterranean, to order all his ships in need of refitting or repairing, and also all of 50 guns and downwards, to Spithead, to put themselves in the best posture to resist the enemy; and he is to repair with the rest to the Downs, and remain there till further orders. *Signed* and *countersigned* as in No. (24). Four duplicates were sent, one by the *Foresight* and one by the *Dover* to the Soundings, the third to Plymouth, and the last to Dartmouth.

(35.) 3 March 1695–6, to Admiral Russell, as follows:—Whereas orders are already given to the Commanders of the several ships and vessels mentioned in the annexed list to put themselves under your command, you are hereby required and directed to take such of them as are now with you under your command accordingly, as also the remainder, so soon as they

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shall join you, and all such other ships and vessels as shall from time to time be ordered to you, and with the said ships and vessels (except such as by our late Orders you are directed to send to the Downs, the Buoy of the Nore, and into the Soundings), together with the Dutch ships which now are with you, or shall join you, you are to use your utmost endeavours to annoy the enemy and proteet his Majesty's subjeets and his allies; and upon all oeeasions which shall offer, and according to the intelligenee which you shall reeeive (without expeeting particular orders, by which opportunity of serviee may be lost), you are to endeavour to take or destroy any of his Majesty's enemies, either by sea or land, or any of their ships and goods. You are to give it in strict charge unto all the commanders and officers of his Majesty's ships under your command, that upon their seizing any prize, they take care that the hatches be immediately spiked up, and all the goods and merehandize belonging to her, as also the ship's tackle, apparel and furniture, preserved from spoil or embezzlement, and the same sent unto the next convenient port in England, and delivered to the person appointed there by the Commissioners for Prizes to receive and take eare of prizes, and likewise that they eause all charter-parties, bills of lading and other papers found aboard to be carefully sealed up, and sent to the Judge of the High Court of Admiralty at Doetor's Commons. You are to send us frequent aecounts of your proceedings in the exeeution of these and sueh other Orders as you shall reeeive, and also of the stations and motions from time to time of the Fleet under your eommand, together with eopies of the results of all Councils of War, and also an account of such intelligence as you shall reeeive coneerning the enemy's Fleet, and all other occurrenees. *Dated*, &e. 3rd March 1695–6. *Signed* H. Preistman, R. Austen, R. Rich. *Countersigned* J. Burchett.

A List of his Majesty's ships mentioned in the above said Order, viz.:

Rate.		Rate.	
1.	*Victory.*	4.	*Advice.*
3.	*Berwick.*		*Anglesey.*
	Burford.		*Assistance.*
	Captain.		*Bonaventure*, hired.
	Cumberland.		*Burlington.*
	Defiance.		*Centurion.*
	Devonshire.		*Colchester.*
	Dreadnought.		*Coronation.*
	Edgar.		*Kingfisher.*
	Elizabeth.		*Lincoln.*
	Expedition.		*Lichfield.*
	Hampton Court.		*Loyal Merchant.*
	Kent.		*Norwich.*
	Mary.		*Portland.*
	Monk.		*Princess Anne.*
	Monmouth.		*Severn.*
	Montague.		*Southampton.*
	Norfolk.		*Tiger.*
	Northumberland.		*Windsor.*
	Resolution.		*Woolwich.*
	Royal Oak.	5.	*Arundel.*
	Suffolk.		*Mary*, galley.

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Rate.		Rate.	
5.	*Mermaid.*	6.	*Charlotte.*, *Henrietta.* — yachts.
	Milford.		*Crescent.*
	Pearl.		*Firebrand.*
	Prince George.		*Fortune.*
	Ruby prize.		*Griffin.*
	Unity.		*Hawk.*
	Virgin prize.		*Joseph.*
6.	*Greyhound.*		*Lightning.*
	Jersey.		*Owner's Love.*
	Quaker, ketch.		*St. Paul.*
	Despatch, *Discovery*, — brigantines.		*St. Vincent.*
	Jolly prize.		*Vulture.* — fire ships.
	Lark.		*Blast.*
	Intelligence, brigantine.		*Carcase.*
	Portsmouth prize.		*Furnace.*
	Solebay.		*Granada.*
	Postboy, *Shark*, *Swift*, — brigantines.		*Serpent.*
			Comet.
			Thunder. — bomb vessels.
	Wren, pink.		*Basilisk.*
	Martin, ketch.		*Terror.*

(36.) 6 March 1695–6, to Sir George Rooke, to bring to the Downs all the bomb vessels, fireships, and brigantines, notwithstanding the previous orders to leave at Spithead all ships in want of repairs, and all from 50 guns downwards. *Signed* H. Preistman, R. Austen, J. Kendall. *Countersigned* J. Burchett.

(37.) 7 March 1695–6, to Capt. Munden, Commander of H.M.S. *Albemarle*, and Commander-in-Chief of the ships in the River Medway and at the Nore, on board the *London*, to transfer from the vessels ordered to the Nore (by No. 25 above) all the useful men, except Commission and Warrant Officers, to the great ships fitting out in the Medway, taking care that the inferior officers turned over are provided for in the best manner. The *Quaker* ketch is omitted from the list given in this Order. *Signed* H. Preistman, R. Austen, R. Rich, J. Kendall. *Countersigned* W. Bridgeman.

(38.) 9 March 1695–6, to the Commander-in-Chief of H.M. ships at Spithead and Portsmouth for the time being. Whereas Captains Foulkes, Shovell, Main, and Lloyd are ordered to town to attend the Admiralty Board, the officers commanding the *Resolution*, *Expedition*, *Cumberland*, *Owner's Love* fireship, and *Orford*, are to be ordered to remain at Spithead, in constant readiness for sea, till further order; and all vessels fitting out in Portsmouth harbour, particularly the 3rd Rates, are to be expedited, and sent out to Spithead as soon as ready, where they are to remain, in readiness for sea. *Signed* and *countersigned* as in No. (29).

(39.) 9 March 1695–6, to Capt. Crosse, Commander of H.M.S. *Dover*. Whereas the *Foresight* and *Anglesey* have been ordered to join him, he is to order one of them to cruise from 30 to 60 or 80 leagues west of Scilly, and he is to give her commander the same orders he has himself, to look out for Sir Geo: Rooke. *Signed* and *countersigned* as in No. (29).

(40.) 9 March 1695–6, to Capt. Walker, Commander of H.M.S. *Foresight*, Downs, similar to Nos. (30) and (31), but omitting

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the latter part as to the enemy's ships. On meeting the *Dover*, he is to place himself under the orders of her commander. *Signed* and *countersigned* as in No. (29). Duplicates sent to Torbay and Spithead.

(41.) 10 March 1695–6, to Capt. Munden, Commander-in-Chief at the Nore and the River Medway, to see that no more three-decked ships in the Medway proceed to the Nore, but that they should repair to Blackstakes to take in their guns, stores, and provisions ; and the 1st, 2nd, and 3rd Rates at the Nore and the 3rd Rates at Blackstakes are to be manned out of the ships at Blackstakes and Chatham, and with other men to be sent to him. He is also to cease manning any more fireships or bomb vessels out of the great ships, but to order their commanders to use their utmost diligence to get their ships manned and proceed to the Downs. *Signed* H. Preistman, R. Austen, J. Kendall. *Countersigned* W. Bridgeman.

(42.) 11 March 1695–6, to same, to cause such bomb vessels, lately fitted out in the river to join the Fleet, as may be obliged to return by bad weather, to be furnished with whatever they may require to enable them to proceed at once. *Signed* and *countersigned* as in No. (24).

(43.) 15 March 1695–6, to same, aboard the *London*, Nore, to order the *London*, *Duchess*, *Sandwich*, *Burford*, *Suffolk*, and *Monmouth*, to join the Commander-in-Chief at the Downs, with tenders to buoy the sands for their safer proceeding thither. *Signed* E. Russell, H. Preistman, J. Kendall. *Countersigned* W. Bridgeman.

(44.) 16 March 1695–6, to the Chief Flag Officer at the Downs. Whereas the following ships—

Norwich	197 men.
Burlington	197 „
Colchester	197 „
Southampton	197 „
Newcastle	236 „
Woolwich	236 „
Prince of Orange	180 „
Virgin prize	115 „
Jersey	110 „
Hawk, fireship	45 „
Griffin, fireship	45 „

were designed for foreign convoys, he is to order them to be manned out of each other up to their middle complements, marked against each above, and send the surplus men by a small frigate or tender to Capt. Munden at the Nore, taking care that the men sent shall be those last pressed. *Signed* and *countersigned* as in preceding Order.

(45.) 17 March 1695–6, to Mathew Aylmer, Esq., Vice-Admiral of the Blue, Downs. Whereas the Board are informed by Lord Berkeley that the bomb vessels in the Downs have been inspected by Capt. Benbow, the latter is to proceed to the French coast, to Sir Clou : Shovell, with those that are serviceable, and the rest are to be ordered to the Buoy of the Nore. *Signed* and *countersigned* as in No. (24).

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(46.) 18 March 1695–6. to Capt. Aston, Master Attendant on Float, to hasten down to the hope the several ships in the River Thames which are come out of the Docks, that the present westerly wind may not be lost. *Signed* H. Preistman, R. Rich, J. Houblon, J. Kendall. *Countersigned* J. Burchett.

(47.) 20 March 1695–6, to Sir Cloud : Shovell, Knt, Vice-Admiral of the Red. "In pursuance of His Majesty's pleasure signified to this Board, you are hereby required and directed to leave such a number of the ships under your command as you shall think proper to lie off Dunkirk, and then you are to repair with the remainder of the ships and vessels to the Downs. And having received some account from Capt. Stephens, Commander of the *Solebay*, touching Capt. Kerr's not weighing on the French coast and following some of the enemy's privateers, we send you herewith a copy of the said account, and do hereby direct and require you to make strict enquiry into the matter of fact, and give an account thereof to this Board." *Signed* and *countersigned* as in No. (24).

(48.) 24 March 1695–6, to Sir George Rooke, Knt., Admiral and Commander-in-Chief of H. M. ships in the Mediterranean, St. Helens. In spite of Order No. (36) above, he is to bring to the Downs all the 4th Rates, fireships, bomb vessels, and brigantines to join the Fleet there, leaving the 5th and 6th rate frigates at Spithead. *Signed* and *countersigned* as in No. (29). Duplicate sent to Plymouth.

(49.) 30 March 1696, to Sir Cloud : Shovell, Knt., Vice Admiral of the Red, Downs. "Whereas your late letter, wherein you give an account that you have brought the bomb vessels from the French coast into the Downs, has been communicated to the King, and his Majesty being dissatisfied that they have not been made use of (as was intended) towards the burning the town of Calais and the transport ships there, you are therefore hereby required and directed, in pursuance of his Majesty's pleasure signified to us last night, forthwith to return with all the said bomb vessels to the coast of France, and make as much use of them as 'tis possible towards the burning the aforementioned town and transport ships and vessels ; and you are to take with you such of the small frigates in the Downs as you shall think may be necessary for the more effectual performance of the aforesaid service, giving us an account from time to time of what you do herein," *Signed* and *countersigned* as in No. (24).

(50.) 31 March 1696, to the Commander-in-Chief at Blackstakes for the time being, to send the great ships to the Nore as soon as ready, and thence to the Downs as soon as manned, without loss of time. *Signed* and *countersigned* as in No. (12).

(51.) 3 April 1696, to Capt. Aston, H. M. Master Attendant on Float, to hasten the despatch of the following five bomb vessels,

Granada	*Furnace*
Blast	*Terror*
Carcase	

now at Woolwich having their mortars fitted to traverse, and send them to the Buoy of the Nore without delay. *Signed*

R. Rich, R. Austen, J. Kendall. *Countersigned* W. Bridgeman. 1696.

(52.) 7 April 1696, to Sir Clo : Shovell, Knt., Vice Admiral of the Red, Downs. "Whereas Capt. Wivell, Commander of his Majesty's ship the *Kent*, has, by his letter of the 26th of last month, represented to the Duke of Shrewsbury that he has not a sufficient number of ships to keep the ships and vessels in which are at Calais and Dunkirk, and his Grace having thereupon, by his letter of this day's date, signified his Majesty's pleasure to this Board to give such orders as we shall judge fit, not only for preventing any ships coming out of Calais, but likewise of Dunkirk, and have regard to the east as well as the west channel belonging to that place, you are therefore hereby required and directed, in case you shall think that Capt. Wivell has not a sufficient strength to perform this service, immediately to send such of his Majesty's ships in the Downs to him as you shall judge requisite on this occasion, and you are further directed, in case you shall think the service may be better performed by another officer, to appoint some other fitting person to command that squadron instead of the said Capt. Wivell, giving us an account of your proceedings herein." Dated 7 April 1696. *Signed* H. Priestman, R. Austen, R. Rich. *Countersigned* W. Bridgeman. No. 1082.

(53.) 9 April 1696, to Capt. Gother, Commander of the *Royal Katherine*, Blackstakes. Whereas about 400 soldiers, sent with some great ships from the Nore to the Downs, are now returning to the Nore, he is to put as many of them as necessary on board the great ships at Blackstakes and the *Content*, if she comes in time to the Nore, to sail them to the Downs, landing the rest wherever their officers shall desire, and, when the ships return from Holland, he is to restore to the *Trident* the men taken from her to enable those ships to sail. *Signed* and *countersigned* as in No. (9).

(54.) 10 April 1696, to Sir Geo. Rooke, Knt., Admiral and Commander-in-Chief of H.M. Fleet coming from the Mediterranean, Spithead, to remain at Spithead with all his ships, till further order. *Signed* E. Russell, R. Rich, J. Kendall. *Countersigned* J. Burchett.

(55.) 10 April 1696, to Sir Clou: Shovell, Knt., Vice Admiral of the Red Squadron, Downs, to do what he thinks best as to complying with the frequent applications made by captains to have returned to them their men turned over or pressed into other ships, but so that no ship be disabled, as several ships would be almost wholly unmanned if all men belonging to other ships were returned ; and he is to keep the ships in readiness to proceed to Spithead, for which he will probably receive orders tomorrow. *Signed* and *countersigned* as in No. (24).

(56.) 11 April 1696, to same, Downs. In pursuance of his Majesty's pleasure, signified to the Board by the Duke of Shrewsbury, he is, with the ships mentioned below, to make the best of his way to Spithead, and remain there till further order ; and he is to take with him the Dutch men of war ordered to sail with him, together with several ships in the Downs laden with provisions and stores, and all vessels there bound on foreign voyages. *Signed* E. Russell, H. Priestman, J. Kendall. *Countersigned* W. Bridgeman.

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Ships to proceed to Spithead with Sir C. Shovell :—

1. *Victory.*
London.
Britannia.
St. Andrew.
2. *Sandwich.*
Duchess.
Albemarle.
St. Michael.
Ossory.
Royal Katherine.
3. *Berwick.*
Burford.
Captain.
Cumberland.
Content.
Defiance.
Devonshire.
Edgar.
Elizabeth.
Expedition.
Hampton Court.
Kent.
Lion.
Montague.
Norfolk.
Northumberland.
Resolution.
Restoration.
Royal Oak.
Suffolk.
Stirling Castle.
4. *Burlington.*
Lincoln.
Lichfield.
Norwich.
Portland.
Severn.
Advice.
Kingfisher.
Colchester.
Southampton.
P. of Orange.
Windsor.
Newcastle.
Tiger.
Princess Anne.
Loyal Merchant.
6. *Greyhound.*
Lark.

All the Fireships and Brigantines.

(57.) 13 April 1696, to same, Downs. Several of the ships mentioned in preceding Order being on the coast of France, he is to send them orders to join him immediately, or follow him to Spithead ; but the *Lincoln* is to remain in the Downs to follow such orders as the Board shall send her commander, and the *Portsmouth prize* is to place herself under his orders, being sent for from the French coast, if there. *Signed* and *countersigned* as in No. (29).

(58.) 13 April 1696, to the Commander-in-Chief at the Nore and in the River Medway, to order the *Britannia*, *St. Andrew* and *Royal Katherine* to the Buoy of the Nore, there to await orders. The *Chatham* and *Bideford*, now at the Buoy of the Nore, being designed for immediate service, are to be manned out of the three deck ships, the former to her middle complement of 197 (after returning to the *Trident prize* the men lately had from her) and the latter to 90, inclusive of the men she has already ; and they are then to make the best of their way to the Downs and await further orders. The *Solebay* also is to join the Fleet at the Downs, or follow it to Spithead. *Signed* as in No. (29). Not *countersigned*.

(59.) 14 April 1696, to Capt. Johnson, Commander of H.M.S. *Suffolk*, Downs. Whereas his ship, together with the following :—

Monk,
Chatham,
Woolwich,
Deptford,
Portsmouth,
Mary, galley, or *Pearl*,
Bideford,

has been appointed to lie off Dunkirk to keep the enemy's ships in, he is to take under his command so many of the above named ships as are at the Downs, and join five Dutch men of war on the coast of Flanders, viz. ,two of 60, two of 50, and one of 40 guns. And whereas the Board are informed that Monsr. Dubart is going out of Dunkirk with seven men of war, to cruise with them northward, Capt. Johnson is to use his best endeavours to prevent their getting out at either the East or the West channel, and when all the above named ships have joined him,

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he is to take command and employ them on this service. *Signed* and *countersigned* as in No. (24).

(60.) 14 April 1696, to Sir Cloud : Shovell, Knt., Vice-Admiral of the Red, Spithead, to order Capt. Johnson, of the *Suffolk*, if the wind be easterly, to repair to the Downs and cross to the coast of Flanders and cruise off Dunkirk, as directed in the Orders hereby sent, and he is to cross thither either in the *Monmouth* or in any other ship in the Downs named in preceding Order, remaining on board till the *Suffolk* shall arrive, when he is to send the *Monmouth* to Spithead, and the *Suffolk* is to be ordered off Dunkirk as soon as possible ; but, if the wind be westerly, he is to take the *Suffolk* to the French coast and carry out his orders, sending the *Monmouth* to Spithead. *Signed* and *countersigned* as in No. (24).

(61.) 14 April 1696, to same, Downs. In carrying out Order No. (57), he is not to take with him any of the ships mentioned in No. (59), which are appointed to lie off Dunkirk, and some of which have already sailed thither from the Downs ; and if Capt. Johnson, of the *Suffolk*, shall be off Dunkirk, a ship is to be appointed to carry the enclosed Orders to him (*see* No. 59), and to order the *Monmouth* to join Sir Cloudesley at Spithead. *Signed* and *countersigned* as in No. (24).

(62.) 15 April 1696, to same, Downs, to remain in the Downs, with all his ships, English and Dutch, till further order. *Signed* E. Russell, H. Priestman, R. Rich. *Countersigned* W. Bridgeman.

(63.) 18 April 1696, to the Commander-in-Chief at the Buoy of the Nore, to sail at once with the *Britannia*, *St. Andrew*, and *Royal Katherine* to join the Fleet at the Downs, taking with him the *Joseph* and *St. Paul* fireships, if ready, and the *Martin* and *Roe* ketches, to buoy the sands, together with other tenders, for his safer proceeding to the Downs. *Signed* and *countersigned* as in No. (29).

(64.) 24 April 1696, to Sir Geo : Rooke, Knt., Admiral and Commander-in-Chief of H.M. Fleet coming from the Mediterrancan, Spithead, to take, for the service of the Fleet, as many men as he can out of the merchant ships that came with him to Spithead. *Signed* E. Russell, H. Priestman, R. Austen, J. Kendall. *Countersigned* W. Bridgeman.

(65.) 25 April 1696, Sir Cloud : Shovell, Knt., Vice-Admiral of the Red, or to the Chief Flag Officer in the Downs, to select three third rates, two fourth rates and two fireships from those in the Downs, provided they are included in the enclosed list, or have returned with Sir Geo : Rooke and are to be joined to the line of battle, and send them to the Soundings, to cruise till 15th May in any station from 10 to 15 leagues from Scilly, or farther if necessary, to protect the trade expected home and annoy the enemy ; and their Commander-in-Chief is to look out for a fleet of twenty-two sail from Barbadoes and two from the East Indies, and see them safely into some English port. But, if he meets with the whole fleet, his whole squadron is to proceed with it to Spithead. He is also to take command of all ships which now are or shall be ordered into the Soundings, and to avoid being intercepted by the Toulon squadron, which will probably come into these seas with a considerable fleet of

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A List of H. M. Ships appointed for the Main Fleet:

Rate.		Rate.		
1.	*Britannia.*	5.	*Mary*, galley.	
	London.		*Experiment.*	
	Victory.	6.	*Lark.*	
	St. Andrew.		*Greyhound.*	
2.	*Albemarle.*		*Despatch.*	brigantines.
	Duchess.		*Swift.*	
	Sandwich.		*Discovery.*	
	Ossory.		*Fly.*	
	St. Michael.		*Intelligence.*	
	Royal Katherine.		*Shark.*	
3.	*Berwick.*		*Post-boy.*	
	Burford.		*Blast.*	bomb.
	Captain.		*Carcase.*	
	Cumberland.		*Comet.*	
	Content prize.		*Furnace,*	
	Defiance.		*Granada.*	
	Devonshire.		*Serpent.*	
	Edgar.		*Terror.*	
	Elizabeth.		*Basilisk.*	
	Expedition.		*Crescent.*	fire ships.
	Hampton Court.		*Firebrand.*	
	Kent.		*Fortune.*	
	Lion.		*Griffin.*	
	Montague.		*Owner's Love.*	
	Norfolk.			
	Northumberland.		*St. Vincent.*	
	Resolution.		*Joseph.*	
	Restoration.		*St. Paul.*	
	Royal Oak.			
	Stirling Castle.			
	Dunkirk.			
	Monmouth.		*London Merchant.*	hospital ships.
4.	*Lichfield.*		*Society.*	
	Severn.			
	Portland.			

(66.) 25 April 1696, to same, to order the following:—

Trident,
Lincoln,
Burlington,
Sunderland,
Ruby,
Hind, pink,
Jolly prize,
Portsmouth prize,
Dunwich,

now in the Downs or within reach, to the Nore, there to await further orders, the *Sunderland* having first been manned to her middle complement, if in the Downs, or, if not, having 50 men sent to her to the Nore by the ships bound thither. *Signed* and *countersigned* as in preceding.

(67.) 25 April 1696, to same, in pursuance of his Majesty's pleasure, to proceed to Spithead with all the ships now in the

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Downs, except those named in preceding Order, which are designed to convoy the King to Holland, and he is to take all outward-bound merchant ships and their convoys along with him; but, in case Sir Geo: Rooke shall be in the Downs with the squadron returned with him from the Straits, any of his ships not fit for sea are to be ordered forthwith to the Buoy of the Nore. *Signed* as in No. (65). *Countersigned* J. Burchett.

(68.) 26 April 1696, to the Chief Flag Officer in the Downs, to order the *Elizabeth* to the Buoy of the Nore, there to await further orders, and to take along with him to Spithead the *Sunderland*, if in the Downs, or, if not, to send her the 50 men ordered in No. (66) to the Nore, with orders to follow him to Spithead. *Signed* E. Russell, H. Priestman, J. Houblon, J. Kendall. *Countersigned* W. Bridgeman.

(69.) 27 April 1696, to Sir Geo: Rooke, Knt., Admiral and Commander-in-Chief of H.M. Fleet for the present expedition. "Whereas by a late letter received from you, you have informed us that there will probably come into these seas with the Toulon squadron, a considerable fleet of the enemy's merchant ships, and that if a squadron of men of war are appointed to lie off Forne-head, or thereabouts, it is likely they may intercept them, you are therefore hereby required and directed forthwith to appoint such a squadron of ships out of those of the line of battle as you shall think fit, to proceed and cruise on such station as you shall judge most proper for intercepting the aforementioned fleet of the enemy's; and when you shall sail westward with the fleet, you are to call them off and take them with you. And whereas there is suddenly expected home a fleet of merchant ships from Barbadoes, and two rich ships from the East Indies, you are to order the commander of the aforesaid squadron carefully to look out, that in case any of them have fallen into the enemy's hands, and they should intend to bring them into any port near the station where he cruises, he may intercept and retake them in their passage." Dated 27 April 1696. *Signed* E. Russell, H. Priestman, R. Austen, J. Kendall. *Countersigned* J. Burchett.

(70.) 27 April 1696, to Sir Geo: Rooke, Knt., Admiral and Commander-in-Chief of H. M. Fleet in the Downs, to leave all the bomb vessels at the Downs, when he sails thence for Spithead. *Signed* E. Russell, H. Priestman, R. Austen, R. Rich, J. Kendall. *Countersigned* W. Bridgeman.

(71.) 27 April 1696, to same. As any of his ships not fit for sea are to be ordered to the Buoy of the Nore (see No. 67), and as there is an absolute necessity of manning some fourth rates and others now fitting out in the River, he is to order one of the ships in the Downs which is in the worst condition (and, if the *Shrewsbury* has not turned out well, she may be selected) to sail to the Buoy of the Nore, and remain there, with all her company on board, till further orders. And as the *Scarborough*, at Portsmouth, is to form part of his fleet, he is to take care to man her when he arrives at Spithead. *Signed* as in No. (69). *Countersigned* W. Bridgeman.

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(72.) 27 April 1696, to same, to have the *Dreadnought* and *Mary*, at Portsmouth, now newly cleaned and refitted, manned, on his arrival at Spithead, by spare men from every ship, that the service of those ships may not be lost while they are clean; and, when he goes to sea with the fleet from Spithead, he is to leave behind the *Hawk* fireship, appointed to accompany the Virginia convoy. *Signed* and *countersigned* as in No. (70).

(73.) 27 April 1696, to same, to order Capt. Warren, of the *Windsor*, to proceed to Spithead with his ship and the *Kingfisher*, *Tiger*, *Advice*, and *Vulture* fireship, which are appointed to convoy the ships bound to the East Indies; and, in case the wind should hang out of the way, he is to tide it thither, and complete, as soon as possible, their provisions and stores to the first proportion ordered them for the aforesaid voyage. Two fireships, other than the *Vulture* and *Hawk*, are to be ordered to join Capt. Johnson's squadron off Dunkirk. *Signed* and *countersigned* as in No. (70).

(74.) 27 April 1696, to same, to order commanders of cruisers to look out for, and seize and bring into port, four or five Scotch ships under Scotch colours, which the master of an Ostender lately arrived from Bordeaux reported he had seen there on the 24th December, N.S., laden with provisions and copperas, which he saw cleared at the Toll Vessel in the River of Bordeaux. *Signed* and *countersigned* as in No. (29).

(75.) 28 April 1696, to same, Commander-in-Chief of H.M. Fleet for the present expedition, Downs, to order the squadron appointed for the Soundings by No. (65) to use the utmost diligence in getting thither by tiding it if necessary. *Signed* E. Russell, H. Priestman, R. Rich, J. Kendall. *Countersigned* J. Burchett.

(76.) 29 April 1696, to same, Commander-in-Chief of H.M. Fleet, Downs. "Whereas the several ships and vessels mentioned in the list hereunto annexed are appointed to be under your command for this present expedition, you are therefore hereby required and directed, in pursuance of his Majesty's pleasure signified to us, forthwith to take them under your command, and, with the first opportunity of wind and weather, proceed with them and lie in such station or stations as you shall think most proper for preventing the Toulon squadron and the fleet of merchant ships expected in those seas getting into any port of France. You are to use your best endeavours to gain intelligence of the enemy's proceedings with the aforesaid squadron, and thereupon to remove from time to time to such stations as you shall judge most convenient for the effectual performance of this service; and upon meeting with the aforesaid men of war or merchant ships of the enemy, or your being assured that they are in any port of France where they may be attacked, you are to use your utmost endeavours to take, sink, burn, or otherwise destroy them, and, upon your receiving certain advice they have got into Brest, you are to return with the fleet under your command to Torbay, and remain there until further orders, taking care to inform

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yourself, during your being at sea, what preparation the enemies are making in the fitting out their men of war at the several ports in the ocean. And in case any of the ships of the fleet shall be in want of provisions necessary for the service wherein they are ordered, you are to take the victualling ships with you, or as many of them as you shall think necessary, leaving the remainder at Spithead. You are also forthwith to cause two third-rates more, such as you shall think most proper, to be added to the squadron which is going from Portsmouth to cruise in the Soundings. And whereas there will be about 850 men wanting to man the third-rates and small frigates at Portsmouth, you are to leave at that place such of the ships under your command which are the most defective as you shall find sufficient to furnish the said number of men; and take particular care that the ships directed by our Order of the 27th instant for convoys to the Canarys, Portugal, and Bilboa be left at Spithead. And, in case you shall think that the bomb vessels may be of service in this expedition, you are to take all or so many of them with you as you shall think necessary. You are to give it in strict charge to all the commanders and officers of his Majesty's ships under your command, that upon their seizing of any prize they take care that the hatches be immediately spiked up, and all the goods and merchandize belonging to her, as also the ship's tackle, apparel, and furniture, preserved from spoil and embezzlement, and the same sent into the next convenient port in England, and delivered to the persons appointed there by the Commissioners of Prizes to receive and take care of prizes; and likewise that they cause all charter-parties, bills of lading, and other papers found on board, to be carefully sealed up and sent to the Judge of the High Court of Admiralty at Doctors' Commons. And whereas his Majesty has signified to us his pleasure that the squadron now off Dunkirk shall be strengthened, the better to keep the enemy from getting out of that port, you are to send thither a ship of 60 guns and two brigantines, and direct their commanders to follow the orders of Capt. Johnson, Commander of the *Suffolk*. During your being at sea, you are to use your best endeavours to annoy the enemy and protect his Majesty's subjects and those of his Allies; and you are, upon all occasions which shall offer, and according to the intelligence which you shall receive (without expecting particular orders, by which opportunities of service may be lost) to endeavour to take or destroy [*Margin.* Duplicate sent to Spithead] any of his Majesty's enemies, either by sea or land, or any of their ships or goods, and to secure to the best of your power the trade passing out of and into the Channel. You are to give us frequent accounts of your proceedings in the execution of these and all such other Orders as you shall receive, and also of the stations and motions from time to time of the fleet under your command, together with copies of the results of all Councils of War, and also an account of such intelligence as you shall receive concerning the enemy's fleet, and of all other occurrences. And you are likewise to give an account of your proceedings to his Majesty's principal Secretary of State." Dated, &c., 29 April 1696. *Signed* H. Priestman, R. Rich, J. Kendall *Countersigned* W. Bridgeman.

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April 26. A List of his Majesty's ships appointed for the Main Fleet :—

1. Rates.

Britannia.
Queen.
Victory.
London.
Royal William.
St. Andrew.

2. Rates.

Neptune.
Vanguard.
Albemarle.
Duchess.
Sandwich.
Ossory.
St. Michael.
Royal Katherine.

3. Rates.

Berwick.
Burford.
Captain.
Cumberland.
Content prize.
Defiance.
Devonshire.
Edgar.
Elizabeth.
Expedition.
Hampton Court.
Kent.
Lion.
Montague.
Norfolk.
Northumberland.
Resolution.
Restoration.
Royal Oak.
Stirling Castle.
Dunkirk.
Monmouth.
Russell.
Cambridge.
Dorsetshire.
Newark.
Lancaster.
Boyne.
Torbay.
Chichester.

3. Rates.

Cornwall.
Shrewsbury.
Ipswich.
Humber.
Breda.

4. Rates.

Norwich.
Severn.
Sunderland.
Portland.
Pembroke.
Medway.

5. Rates.

Mary, galley.
Scarborough.

6. Rates.

Lark.
Greyhound.

Brigantines.

Despatch.
Swift.
Discovery.
Fly.
Intelligence.
Shark.
Postboy.
Diligence.

Yachts.

Isabella.
Fubbs.

Bomb Vessels.

Blast.
Carcase.
Comet.

Bomb Vessels.

Furnace.
Granada.
Serpent.
Terror.
Basilisk.
Fire-drake.
Mortar.
Portsmouth.
Kitchen.
Salamander.
Owner's Love.
Society.
Star.
Julian.
Phœnix.

Fireships.

Crescent.
Firebrand.
Fortune.
Griffin.
Owner's Love.
St. Vincent.
Joseph.
St. Paul.
Blaze.
Flame.
Vulcan.
Hunter.
Phœnix.
Vesuvius.
Etna.
Strombolo.

Hospital Ships.

London Merchant.
Society.
Bristol.
Siam
Josiah.
Muscovy Merchant.

Hagboats.

Suffolk.
Yarmouth.

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(77.) 1 May 1696, to same, Commander in-Chief of H.M. Fleet at Spithead. In pursuance of the King's pleasure, he is to go to sea with the first opportunity of wind and weather, to carry out the orders he has received; and if his fleet is insufficiently manned, he is to leave more ships behind at Spithead, and use their crews to man the rest. *Signed* H. Priestman, R. Rich, J. Houblon, J. Kendall. *Countersigned* W. Bridgeman.

(78.) 3 May 1696, to same, Commander-in-Chief of H.M. Fleet for the present expedition, Spithead. Upon consideration of his letter of yesterday, he is directed to take with him into the Soundings the *Berwick*, *Edgar*, *Lion*, and *Medway*, which he had appointed to remain at Spithead and convoy the trade to Portugal, Bilboa and the Canaries; and he is to take also two of the three fireships *Owner's Love*, *St. Vincent* and *Crescent* (leaving the third at Spithead), and the *Humber*, *Stirling Castle* and *Breda*, the men taken from the last being to be returned, except those put on board the *Experiment*. But he may leave some of the ships behind for the better manning the rest. *Signed* E. Russell, H. Priestman, R. Austen, J. Kendall. *Countersigned* J. Burchett.

(79.) 3 May 1696, to Sir Martin Beckman, Downs, to sail with all the bomb vessels and their tenders and storeships to Spithead, in company with Capt. Kirkby, Commander of H.M.S. *Southampton*, who has been ordered to proceed to Spithead with the *Captain*, *Sunderland*, *Advice*, *Newcastle* and *Princess Anne*, and all the bomb vessels, storeships, victuallers and tenders in the Downs. *Signed* and *countersigned* as in No. (64).

(80.) 3 May 1696, to Mathew Aylmer, Esqre., Vice Admiral of the Red, Downs, to proceed to Spithead with the *Elizabeth*, *Trident*, *Lincoln*, and *Burlington*. *Signed* and *countersigned* as in No. (78).

(81.) 10 May 1696, to Sir Geo: Rooke, Knt., Admiral and Commander-in-Chief of H.M. Fleet for the present expedition, Soundings, sending him advices of the Toulon fleet having passed Lisbon seventeen days before, empowering him to call off all or part of Capt. Foulkes' squadron in the Soundings, and informing him that Vice Admiral Aylmer had been ordered to join him at once, with such line of battle ships as were fit for sea. *Signed* E. Russell, R. Rich, J. Houblon, J. Kendall. *Countersigned* J. Burchett.

(82.) 10 May 1696, to Mathew Aylmer, Esqre., Vice Admiral of the Red, Spithead, sending him advices as to the Toulon fleet, and ordering him to take the following ships, viz.:—

St. Michael,	*St. Martin*, with the bomb vessels,
Norwich,	*Elizabeth*,
Scarborough,	*Breda*,
Fortune, fireship,	*Newark*,
Sunderland,	*Stirling Castle*,
Medway,	*Humber*,
Mary, galley,	*London Merchant*, hospital ship,
Isabella, yacht,	*Discovery*, brigantine,
Diligence, brigantine,	

or as many as were ready, and join Sir Geo: Rooke's fleet at its rendezvous, west 15 leagues from Ushant; and in case he does

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not find the fleet or any frigate to give him notice of it, he is to return to Torbay and await orders; and, in case any of the ships are not in a condition to sail, he is to make the *Mary* and *Dreadnought* ready for sea and take them with him. *Signed* as in preceding. *Countersigned* W. Bridgeman.

(83.) 12 May 1696, to John Benbow, Esqre., Rear Admiral of the Blue Squadron, by direction of the Lords Justices, to keep as many English and Dutch ships with him as may be superior to the ships Du Bart has with him, and send the rest, English and Dutch, of 60 guns and upwards, to Spithead, and the small ships to the Downs. *Signed* and *countersigned* as in No. (70).

(84.) 16 May 1696, to Sir Geo: Rooke, Knt., Admiral and Commander-in-Chief of H.M. Fleet for the present expedition, to send two ships to convoy from Scilly to the Nore the *Nassau* from the East Indies, and four ships from the Barbadoes; and they are then to return to the fleet, or do so at once if the ships have already left Scilly. *Signed* R. Austen, R. Rich, J. Kendall. *Countersigned* W. Bridgeman.

(85.) 19 May 1696, to same, at sea, to appoint two fourth rates, from either the Main Fleet or the squadron of Capt. Foulkes, to cruise for two months off the port of Galloway, one further out at sea than the other, and look out for the *Amity* and the *Mary*, which are expected there by the East India Company, and for any other ships that may come, and see them safe into Galloway, and convoy them thence to Spithead at the end of the two months, or sooner, if all the ships expected home this summer shall have arrived; and the two ships selected for this service are to take orders to the *Crown* and *Harwich*, now cruising off Galloway, to repair to Plymouth to revictual, and to the *Dover* and the *Weymouth* or another man of war in her stead, appointed to convoy an East India ship, lately arrived, from Galloway to England, to carry out their orders without loss of time. *Signed* E. Russell, R. Austen, R. Rich, J. Kendall. *Countersigned* J. Burchett.

(86.) 22 May 1696, to same, Admiral of H.M. Fleet, to order the commanders of ships in his fleet to take in provisions at Torbay, according to the intention of the Lords Justices, but so that too many ships may not at one time be out of condition of doing service; and any surplus stores with his fleet are to be put on board the victualling ships, as these are unloaded, and sent whither the Navy Board would have them sent. *Signed* E. Russell, R. Austen, J. Kendall. *Countersigned* J. Burchett.

(87.) 25 May 1696, to the Right Honble. the Lord Berkeley, Admiral and Commander-in-Chief of H.M. Fleet for the present expedition. "Whereas we have granted a Commission for you to be Admiral and Commander-in-Chief of H.M. Fleet for the present expedition, you are hereby required and directed forthwith to repair to Torbay and take upon you the charge and command of the several ships and vessels of the fleet now under the command of Sir George Rooke, and any others which shall join you, and ordered to be under your command, together with the Dutch ships now at Torbay, or which shall join you, using your utmost endeavours to put them into the best condition that may be for the sea with all possible despatch.

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Upon your arrival at Torbay you are to send us a list of the names of the several ships and vessels of the fleet there, together with an account of what ships thereof are at sea on particular services and where, in order to our settling the ships which shall be for the Main Fleet, and sending you such further orders therein as shall be thought convenient.

When you proceed to sea, according to such orders as will be sent to you, you are to lie in such stations as you shall think most proper, and there to continue or remove from time to time to such other places or stations as you shall judge most advantageous for annoying the enemy and protecting his Majesty's subjects and his allies; and you are, upon all occasions which shall offer," &c., as in No. (76), latter part of last paragraph but one. Then follow a paragraph as to prizes, identical with No. (76) paragraph 4, and one as to reports to the Admiralty, identical with last paragraph of No. (76), omitting the Order to report to the Secretary of State. *Signed* as in No. (85). *Countersigned* W. Bridgeman.

(88.) 30 April [? May] 1696, to same, Torbay, to order the *Foresight* and *Content prize*, now at Plymouth, to convoy several merchant ships from thence to Bilboa and St. Sebastian, and return to the fleet; or, if he thinks it best that they or either of them should join him at once, to appoint two men of war from the Fleet for that service in their stead. *Signed* E. Russell, R. Rich, J. Kendall. *Countersigned* J. Burchett.

$(c)^2$ 2 Dec. Minute of the Commissioners of the Admiralty. In pursuance of the Order of the House of 27 Nov., they have caused the annexed list to be prepared; but as to the latter part of the said Order (see Notes above, Order (1) of 27 Nov., p. 302), not knowing the force of the enemy's fleet, nor where they may employ the same, they cannot give any opinion whether the fleet be sufficient for the protection of England, Ireland, trade and the Plantations, but think that by the said list it appears that the naval force of England is much greater now than ever. *Signed* E. Russell, H. Preistman, R. Rich, G. Rooke, Jno. Houblon. *Dated* Admiralty Office, this day.

[Delivered in by Sir Geo. Rooke this day, and marked 2. Referred to a Select Committee. *See* Notes above, p. 303.]

$(c)^3$ 2 Dec. Paper appended to preceding, consisting of the following lists :—

(1) A list of his Majesty's ships and vessels at sea.

Rate.	Ships' names.
1.	*Queen.*
	Victory.
3.	*Breda.*
	Boyne.
	Chichester.
	Captain.
	Content prize.
	Cambridge.
	Cornwall.
	Devonshire.
	Dreadnought.
	Defiance.
	Essex.
	Eagle.

Rate.	Ships' names.
3	*Expedition.*
	Hampton Court.
	Lancaster.
	Mary.
	Monk.
	Monmouth.
	Newark.
	Plymouth.
	Restoration.
	Royal Oak.
	Rupert.
	Shrewsbury.
	Swiftsure.
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Rate.	Ships' names.
3.	*York.*
	Yarmouth.
4.	*Anglesey.*
	Assistance.
	Advice.
	Burlington.
	Blackwall.
	Centurion.
	Chatham.
	Crown.
	Chester.
	Canterbury.
	Coventry.
	Colchester.
	Deptford.
	Dover.
	Dragon.
	Falmouth.
	Falkland.
	Foresight.
	Gloucester.
	Guernsey.
	Greenwich.
	Hampshire.
	Kingfisher.
	Loyal Merchant, hired.
	Medway.
	Nonsuch.
	Norwich.
	Newcastle.
	Portland.
	Pendennis.
	Pembroke.
	Oxford.
	Prince of Orange, hired.
	Princess Anne, hired.
	Rochester.
	Ruby.
	Reserve.
	Romney.
	Severn.
	Sunderland.
	Southampton.
	Tiger.
	Weymouth.
	Windsor.
	Woolwich.
	Warwick.
5.	*Arundel.*
	Virgin prize.
	Saudadoes prize.
	Speedwell.
	Lynn.
	Smyrna Merchant, hired.
	Sheerness.

Rate.	Ships' names.
5.	*Milford.*
	Thunderbolt.
	Poole.
	Looe.
	Roebuck.
	Winchelsea.
	Lyme.
	Experiment.
	Shoreham.
	Rye.
	Hastings.
	Richmond.
	Adventure.
	Terrible.
	Ruby prize.
	Sweepstakes.
	Dolphin.
	Assurance.
	Play prize.
	Sorlings.
	Mermaid.
	Mary, galley.
	Searborough.
	Siam, hospital ship.
6.	*St. Albans prize.*
	Orford.
	Dunwich.
	Jersey.
	Penzance.
	Germoon prize.
	Mariana prize.
	Lark.
	Queenborough.
	Seahorse.
	Henry prize.
	Rupert prize.
	Jolly prize.
	Swan.
	Greyhound.
	Bideford.
	Maidstone.
	Essex prize.
	Hind, pink.
	Wren, pink.
	Brilliant, sloop.
	Express, *Mercury*, *Messenger* } advice boats.
	Spy, brigantine.

Fireships.

5.	*Fortune.*
	Joseph.
	Owner's Love.

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Rate.	Ships' names.
	Fireships—cont.
5.	*Phœnix.*
	Griffin.
	Strombolo.
	Flame.
	Firebrand.
	Hawk.
	Vesuvius.
	Blaze.
	Vulture.
	Rose.
	Hunter.
	Tenders.
6.	*Martin*, *Quaker*, *Roe* } ketches
	Yachts.
6.	*Isle of Wight.*
	Monmouth.

Rate.	Ships' names.
	Yachts—cont.
6.	*Soesdyke.*
	Charlotte.
	Fubbs.
	Henrietta.
	Isabella.
	Katharine.
	Mary.
	Merlin.
	Navy.
	William and Mary.
	Cleveland.
	Jemmy.
	Queenborough.
	Squirrel.
	Storeships.
	Muscovia Merchant.
	Katharine.
	Canterbury.
	Greenfish.
	Suffolk, *Yarmouth* } hag boats.

(2) A List of his Majesty's ships and vessels in harbour putting into a condition for the sea :

Rate.	Ships' names.
1.	*St. Andrew.*
	Britannia.
	London.
	Royal William.
2.	*Albemarle.*
	Duchess.
	Duke.
	Neptune.
	Ossory.
	St. Michael.
	Sandwich.
	St. George.
	Royal Katherine.
	Vanguard.
3.	*Burford.*
	Berwick.
	Cumberland.
	Dunkirk.
	Dorsetshire.
	Edgar.
	Elizabeth.
	Grafton.
	Humber.
	Kent.
	Ipswich.
	Lenox.

Rate.	Ships' names.
3.	*Lion.*
	Montague.
	Norfolk.
	Northumberland.
	Russell.
	Resolution.
	Suffolk.
	Stirling Castle.
	Warspite.
4.	*Bonadventure.*
	Bonadventure, hired.
	Bristol.
	Harwich.
	Josiah, storeship.
	Lichfield.
	Lincoln.
	Trident prize.
5.	*Charles*, galley.
	Dover prize.
	Fowey.
	Feversham.
	Garland.
	Gosport.
	St. Malo, hired.
	Southsea Castle.
	Pearl.

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Rate.	Ships' names.
	Fireships.
5.	*Crescent.*
	Etna.
	Lightning.
	St. Paul.
	Vulcan.
	St. Vincent.
6.	*Eagle*, advice boat.
	Royal, transport.
	Solebay.
6.	*Seaford.*
	Sun prize.
	Paramour, pink.
	Scout, boat.
	Brigantines.
	Diligence.
	Discovery.
	Despatch.
	Fly.
	Intelligence.
	Postboy.
	Shark.
	Bomb vessels.
	Angel.
	Blast.
	Basilisk.
	Carcase.
	Comet.
	Granada.
	Greyhound.
	Firedrake.
	Furnace.

Rate.	Ships' names.
	Bomb vessels—cont.
	Julian.
	Kitchen.
	Mary Ann.
	Mortar.
	Owner's Adventure.
	Portsmouth.
	Phœnix.
	Star.
	Society.
	Salamander.
	Serpent.
	Terror.
	True Love.
	Machines.
	John and Martha.
	Endeavour.
	Owner's Goodwill.
	Smacks.
	Royal Escape.
	Flemish Longboat.
	Little London.
	Hulks.
	Arms of Rotterdam.
	Chatham.
	St. David.
	French Ruby.
	St. George.
	Leopard.

(3) Ships now building :—

Rates.	
2nd	Four.
3rd	Three.
4th	Eight.
5th	Two.
6th	One.
Advice boat	One.

(4) Ships to be set up as others launch :—

Rates.	
3rd	Three.
4th	One.
5th	One.

Signed, by command of their Lordships, W. Bridgeman.

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(*d*) 10 Dec. Papers presented this day by the Commissioners of the Admiralty to the Select Committee, by whom they were reported to the House for the purpose of being referred to the Committee, viz. :—

(*d*)[1] 10 Dec. The Lords of the Admiralty's Answer relating to the registering seamen. Pursuant to Order of the House of 2 Dec. (*see* notes above, p. 303), they acquaint the House that it appears in the Register Office, 4656 men have registered themselves, who are now actually in his Majesty's service, whereof 911 are commission and warrant officers. They annex a paper containing what they propose for remedying the obstructions in the Register Act. *Signed* as in (*c*)[2], with the addition of J. Kendall *Dated* Admiralty Office, 9 Dec. 1696. [Received and read this day.]

(*d*)[2] 10 Dec. Alterations and additions proposed [by the Lords of the Admiralty] to be made in the Act for Registering Seamen.

Having had under our consideration what additions and alterations may be necessary to be made in the Act for Registering Seamen, we humbly propose that the particulars following be inserted in the said Act, for the better answering the intent thereof :—

1st. It being enacted that the Governor or Governors of the hospital shall have the power of admitting disabled persons therein, or the widows and children of such of them as are slain, upon certificates of the said men being disabled or slain, under the hands of the officers of the ships to which they did belong, we are humbly of opinion that, whenever it shall happen that there be more pretenders at one time to the said relief than the hospital shall be capable of receiving, the preference shall be given to such as shall appear to have been first registered.

2nd. Whereas it is enacted that every seaman at the time of his being registered shall bring, or cause to be brought, a certificate of his place of abode, under the hands of two Justices of the Peace of the county or place where he lives, and the like as often as he shall change the place of his habitation, we are of opinion that, in regard to the said Justices of the Peace do frequently dwell at such distances from each other as gives great trouble, and will be a discouragement to seamen intending to register, it will be more for the service if they might be registered upon producing certificates under the hands of any one of the Justices of the Peace for the respective divisions of the counties wherein they live, and that the said Justices be directed to give no such certificates but on their own knowledge or sufficient testimony.

3rd. Whereas by the Act of Parliament masters' mates are to be excluded from the benefits of the register, we conceive that, in consideration that they have neither commissions nor warrants, or are in case of age or disability provided for in the Navy, as these officers are, either by the half-pay or superannuation, the said mates should be admitted, as other seamen are, to the benefits of the hospital and all other advantages given by the said Act to registered seamen.

4th. We are of opinion that a clause should be added empowering the Commissioners appointed for registering seamen to administer

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an oath to masters of ships and other persons concerned, for the better putting in execution the powers of the said Act.

5th. Whereas, by the said Act, no seaman above 50 years of age is qualified to register himself, nor any man to be provided for in the hospital but such as are registered; and whereas many men upwards of that age may have served so long and so well in his Majesty's ships as to deserve some provision in the said hospital; we are of opinion that a clause be added to the said Act, that such seamen as have served in any of his Majesty's ships five years, without desertion, may be permitted to register themselves, and consequently be qualified for the relief of the hospital, notwithstanding they were upwards of fifty years of age at the time of the passing of the Act. *Signed* Wm. Bridgeman.

(*d*)[3] 10 Dec. The Lords of the Admiralty's Answer relating to Newfoundland [*see* Notes above, 2 Dec. p. 302]. In pursuance of Order of the House of 2 Dec., they acquaint the House that in the month of February last they received advice that seven ships were fitting at St. Malo, designed for Newfoundland, under the command of Mousr. de L'Epine. The annexed paper will show that the Admiralty sent such convoys to Newfoundland as directed by the King's Order in Council, though some were hindered by contrary winds from proceeding so soon as was intended. As to any intelligence of the enemy's privateers going to the West Indies, they have had some uncertain advices of the same from time to time. They submit a list of men of war employed this year for the care of our other plantations and trade in those parts. *Signed* and *dated* as in (*d*)[1].

(*d*)[4] 10 Dec. Statement by the Admiralty as to convoys for Newfoundland. His Majesty by his Order in Council of the 23rd of January was pleased to direct that a man of war should be appointed to convoy the ships belonging to the merchants of Bideford from Ireland to Newfoundland, and that another should proceed from Plymouth, and upon their joining off Newfoundland, to cruise there during the fishing season; that another man of war should be ordered to sail from England by the 10th of June next, with the ships that shall be then ready, to fetch off the fish and carry it to foreign markets; and that another man of war should be timely sent from hence, to bring home the ships with train-oil and passengers. Four men of war were sent accordingly. [Appended to preceding.]

(*d*)[5] 10 Dec. A List of ships appointed for the care of the plantations and the trade in those parts against the enemy.

Rates.		
4.	*Newcastle*	at - - - Barbadoes.
5.	*Virgin prize*	at - - - Barbadoes.
4.	*Bristol*	lately returned from Barbadoes.
5.	*Play prize*	lately returned from Barbadoes.
4.	*Colchester*	at the Leeward Islands.
5.	*Hastings*	at the Leeward Islands.
6.	*Jersey*	at the Leeward Islands.
4.	*Southampton*	In Jamaica.
	Princess Anne	In Jamaica.
	Reserve	In Jamaica.
	Hampshire	lately returned from thence.
6.	*Swan*	lately returned from thence.

Rates—*cont.*

4. *Greenwich*
   Loyal Merchant
   Prince of Orange } Virginia and Maryland.
5. *Hawk*, fireship
6. *St. Albans prize* } Ordered home.
5. *Richmond*, attends on New York.
4. *Falkland*
5. *Arundel* } at New England.
6. *Orford*
   Newport, lost.
5. *Sorlings*, lately returned from New England.
3. *Dreadnought*
4. *Oxford* } Newfoundland.
5. *Saudadoes prize*
   Sapphire, lost.

Signed W. Bridgeman.

[Appended to $(d)^3$ above].

$(d)^6$ 10 Dec.—Answer of the Admiralty to Order of 4 Dec. (*see* Notes above). They have sent to the Navy Board for such an account of the ships as their Lordships have required. *Signed* and *dated* as in $(d)^1$. *Countersigned* Wm. Bridgeman. [Received and read this day in Select Committee. Com. Book.]

(*e*) 12 Dec. Papers delivered to the Select Committee this day.

$(e)^1$ 12 Dec. Paper *endorsed* Sir George Rooke his list of Dutch ships, consisting of :—

(1) A List of the Dutch ships I found in the Downs the 25th of April 1696—

Ships' Names.	No. of Guns.
D'Vrÿheÿd	94
D'Unie	92
Seven Provintien	90
Koning William	90
Ridderschap	72
Dordregt	72
Holland of Rotterdam	72
Alckmaer	72
Catwÿk	72
Haarlem	64
Vriesland	64
Prince Friso	64

	Ships' Names.	No. of Guns.
These 5 ships were detached to attend the King to Holland.	*'t Stot Muÿden*	72
	Holland of Amsterdam	72
	Velû'w	66
	Amsterdam	64
	Zeelandia	64
These 5 ships were detached for the Service of Dunkirk.	*'t Loo*	64
	Princess Amelia	56
	Damiâten	50
	De Son	50
	Provintie van Utregt	50

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(2) A List of Dutch ships of war in the line of battle, which sailed with me from Spithead, May the 4th 1696.

Ships' Names.	No. of Guns.	
Dordregt	72	
Koning William	90	S.b. Nagt. de Boer.
Wassenaer	60	
Seven Provintien	90	V. Adml. Callembergh.
Holland	72	
Delft	50	
Alkmaer	72	
Beschermer	90	
Dieren	64	
Catwÿk	72	
Vrÿheÿd	94	Lt Adml. Almond.
Haarlem	64	
Vriesland	64	
Elswort	64	
Numchenden	72	
Prince Friso	64	
Unie	92	
Ridderschap	72	S.b. Nagt. Vandergoes.
Deventer	72	
Wapen Van Medenblick	50	
Dam Van Utrecke	64	

(*e*)[2] 12 Dec. Report from the Commissioners of the Navy Board to the Lords of the Admiralty about the Act for Registering Seamen, as follows :—May it please your Lordships, By our letter of the 16th inst. to your Lordships' Secretaries, we desired them to acquaint your Lordships that the Commissioners of the Register had it under their consideration what additions and alterations might be necessary to be made in the late Act for registering seamen for his Majesty's service, for the better execution thereof; and having now received their Report concerning the same, we send your Lordships a copy of it inclosed for your information therein. What we have to observe upon it is this :—(1st) That when there shall be more pretenders at one time to the relief of the hospital than can be provided for, as we doubt there will be often, it seems reasonable to us that preference should be given to such as are most disabled, rather than such as were first registered, unless those that were first registered shall be most disabled. (2nd) That the difficulty of procuring certificates from the Justices of the Peace being such, as we are informed, as mightily retards the seamen registering themselves, we conceive it necessary the certificate of any Justice of the Peace should be authentic in that case, whether he be of the same county or not, presuming the seamen will be able to satisfy them by letters, oaths, witnesses, or one way or other, of their habitations and places of abode, though distant from them, and that the said business will be very much facilitated by that means. (3rd) The Chest at Chatham being a charity under the best constitution, rules and laws, and managed with the least charge and greatest content and satisfaction of any we know or have heard of, we think it will not be advisable to make any alterations therein, at least until the hospital shall be in a condition in all

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respects to answer the whole, it seems unreasonable to meddle with it. (4th) Whereas by the said Act no seaman above 50 years of age is qualified to register himself, nor any man to be provided for in the hospital but such as are registered, and whereas many seamen upwards of that age may have served so long and so well in his Majesty's ships as to deserve some provision in the said hospital, we humbly offer it to your Lordships, whether it may not be convenient to have a clause of that kind added to the said Act, namely; That such as have served in his Majesty's ships upwards of five or six years, without desertion, shall be qualified for the relief of the said hospital, though not registered, by reason of their being above 50 years of age at the passing of the said Act, which nevertheless is humbly submitted to your Lordships' determination by your Lordships' obedient Servants. *Signed.* R. H., C. S., J. S., D. L., S. P. *Endorsed* as received this day from the Commissioners for the Navy Board touching the Registry of Seamen.

(*e*)[3] 12 Dec. Letter from the Commissioners for Registering Seamen to the Navy Board, *dated* 18 Nov., inclosed in preceding, as follows:—Gentlemen, We have received your letter of the 27th past, acquainting us that you had orders from the Rt. Hon. the Lords of the Admiralty, to advise with us concerning the Act of Parliament for registering seamen, for your laying before their Lordships what defects are in the said Act, and what alterations and additions may be made thereunto for the more effectual carrying on the said service, and desiring our opinion therein. We have considered the same, and do think that the particulars following are requisite to be inserted in the said Act, for the better answering the intent thereof, viz. (1st). It being enacted that the governor or governors of the hospital shall have the power of admitting disabled persons therein, or the widows and children of such of them as are slain, upon certificates of the said men being disabled or slain, under the hands of the officers of the ships to which they did belong, we are humbly of opinion that, whenever it shall happen that there be more pretenders at one time to the said relief than the hospital shall be capable of receiving, the preference be given to such as shall appear to have been first registered. (2ndly). Whereas it is enacted that every seaman at the time of his being registered shall bring, or cause to be brought, a certificate of his place of abode under the hands of two Justices of the Peace of the county or place where he lives, and the like as often as he shall change the place of his habitation. We are of opinion that, in regard the said Justices of the Peace do frequently dwell at such distances from each other as gives great trouble, and will be a discouragement to seamen intending to register, it would be more for the service if they be registered on their producing certificates under any one of the Justices of the Peace for the respective counties wherein they live, the said Justices being directed to give no such certificates but on their own knowledge or sufficient testimony. (3rdly). Whereas it is enacted by the said Act, that 6*d.* per mensem shall be allowed and paid out of the wages of every seaman belonging to any of his Majesty's ships and vessels, and of any the subjects of England, or the dominions thereof, for support of the hospital

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to be erected at Greenwich, but no mention made therein by whom the said 6*d.* shall be stopped, it is our opinion that the masters of all merchant ships be empowered and directed, under certain penalties, to stop the said 6*d.* from their men abroad or at home, and within 6 days after the delivering their goods to deliver in upon oath to the persons appointed to take the same accounts of the times of the men's entries and discharges of the several persons belonging to their ships or vessels during the voyage, and immediately after they shall have paid off their said men, to pay the sixpences they shall so stop to the officers appointed for receiving the same. (4thly). Forasmuch as the seamen in most of the colliers and other coasting vessels sail by the voyage or share, which the Act does not mention, and not by the month, and the masters keep no accounts, or at best very imperfect ones, of the times of men's entries and discharges: which not only occasions the officer concerned much trouble and expense of time, but greatly lessens the income which we humbly conceive is intended by the said Act, it is therefore proposed that such seamen as sail by the voyage or share pay 6*d.* in the pound out of their said wages or shares. (5). Whereas there are divers small vessels, hoys, close and open lighters, western barges, and other boats of carriage, in the river Thames and within the several other rivers and ports of the kingdom, who work not by the month, but by voyages, tides, shares and day pay or otherwise, whose advantages are very considerable and particularly distinguished in the said Act; if it be intended that they shall contribute towards the charge of Greenwich Hospital, we think it cannot be better done than by the respective owners of the aforesaid vessels paying the 6*d.* per ton per annum which is the nearest computation to that of 6*d.* per man a month; and in regard the wages of seamen who go foreign voyages in merchant ships is more than double what is allowed those in his Majesty's service, it is left to consideration whether such seamen ought not to pay 12*d.* per month out of their wages during the war. (6). Whereas by Act of Parliament, masters' mates are to be excluded from the benefit of the register; we conceive that, in consideration they have neither commissions nor warrants, or are in case of age or disability provided for in the Navy, as those officers are, either by half-pay or superannuation, the mates should be admitted, as other seamen are, to the benefit of the hospital and all other advantages given by the said Act to registered men. (7). We are of opinion that a clause should be added impowering the Rt. Hon. the Lords of the Admiralty to direct us, either by ourselves or officers, to administer oaths to any masters of ships or others concerned, for the better putting the said Act in execution. (8). That the incomes and revenues of the Chest at Chatham may be incorporated to that of the Hospital at Greenwich, so soon as the same shall be in a condition to answer the claims of disabled and wounded seamen, &c.—We are, &c. *Signëd* I.H., G.B., T.B.

Endorsed as received this day from the Commissioners for Registering Seamen. *Marked* 1.

(*e*)[4] 12 Dec. Letter from same to the Secretaries of the Admiralty, *dated* 8 Dec., inclosed in (*e*)[2], as follows:—Gentlemen,

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In obedience to the directions of the Rt. Honble. the Lords of the Admiralty, signified to us by your letter of the 5th instant, requiring our giving their Lordships an account what effect the late Act for registering seamen has had; and, if there have been any obstructions therein, what those were, and what can be proposed for remedying them, we desire you will please to acquaint their Lordships that we have registered 4,656 men who are now actually in his Majesty's service, and of those 911 are commission and warrant officers. The obstructions we meet with in putting in execution the powers contained in the said Act, together with what we propose for the remedying the same, are as follow, viz. :—The obstruction which we find at present to the registering of seamen is their being obliged by the Act to procure certificates of the places of their abode under the hands of two Justices of the Peace of the county where they dwell, in order to their being registered, and to do the like as often as they remove their habitation; and that this is a very great obstruction we find, as well by seamen that have been at this office and refuse to comply with those methods, as by the letters of several of our officers at the out-ports, acquainting us that, by means of this difficulty alone, they have missed the registering of some hundreds who have applied to them for that purpose, but would not take the trouble of procuring such certificates. Also, that by the inconveniences of sending so far as places of their respective habitations for the said Justices' certificates they are frequently miscarried and lost, or the ships they belong to sail before they can have answers; several instances whereof we have from the commanders of his Majesty's ships, who acquaint us that the greatest part of their men who have employed their friends to register them have had no account thereof. And lastly, you may please to inform their Lordships, that about 14,000 blank letters of attorney have been delivered to seamen for this purpose, notwithstanding which, there are no more than the said 4,656 in the books of this office, many of whose certificates of their being registered have been daily miscarried and lost. For removing this obstruction we do humbly propose that any seaman desiring the same may be registered upon certificate under the hands of one Justice of the Peace of any county, or of one magistrate of any corporation, though not the same wherein they dwell, presuming the said seamen will be able to satisfy them by letters, oaths, witnesses or otherwise, touching place of their habitation; and we doubt not but we may be able to inform ourselves of the truth of most of the said certificates by means of our own officers at several of the seaport towns. The obstruction which we meet with in our collection of the 6*d.* per mensem of merchant seamen's wages for the use of Greenwich Hospital is from the masters of merchant ships and vessels, who refuse to give account upon oath of the times of their men's entries and discharges, and to pay the said duty. And this we are daily informed of, both by the Receiver at the port of London, who finds the said master so unwilling to comply therewith that scarce any pay the said duty without compulsion, and then refuse to do it upon oath, so that he is forced to take whatever they please to give him, and also by our several

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officers at the out-ports, many of whom acquaint us by their letters that they can get no money at all, and the rest that they receive but very little, especially from the smaller vessels, whose stay in any place is so short that they avoid the being stopped by the authority of the Vice Admiral of the counties, who often dwell at some considerable distances from the place the said vessels use. For removing this obstruction we humbly offer it as our opinion that there be an express clause in the Act obliging the masters of all merchant ships and vessels, under certain penalties, to stop the sixpence per mensem out of their seamen's wages, and to pay the said money to the officers appointed for receiving the same; and also to deliver to the said officers accounts upon oath of the times of their said men's entries and discharges, and that all Custom House officers may be directed not to clear any ships or vessels whose masters shall not produce certificates from our said officers of their having complied herewith. The third obstruction we meet with is from the masters of such coasting and other small vessels, whose men generally sailing by the voyage or for shares, think themselves exempt from paying any duty, because the Act mentions only its deduction out of monthly wages. For removing this obstruction and avoiding the many disputes that otherwise will happen between our officers and these men we conceive it necessary that the Act should be a little explained in that particular, distinguishing either by the burthen, employments, or otherwise, those that are to pay the said duty; and we are also of opinion that 6*d.* in the pound would be collected with much more ease and certainty out of the wages of such seamen as sail by the voyage and shares than so much by the pounds. Having by our letter of the 18th past, in obedience to their Lordships' commands, given the Navy Board our opinion more at large in several particulars touching the defect of the said Act of Parliament, with our reasons for such alterations and additions as we conceived needful to be made thereunto for the more effectual carrying on this service, which we understand has been transmitted to their Lordships by those gentlemen, we pray leave to refer thereto for what may be further offered on this occasion. *Signed* J. H., B. T., G. B., T. B. *Endorsed* as received this day from the Commissioners for Registering Seamen. *Marked* 2.

(*e*)[5] 2 March 1696–7. Letter from James Vernon to Mr. Bridgeman, as follows :—

Sir, Whitehall, 9 Feb. '96. [1696–7].

The gentleman you mentioned, who had a letter from Ostend, bringing it me this morning, I send you an extract of it, to be communicated to the Lords of the Admiralty.

Sir, your most humble servant,
Ja. Vernon.

The Extract appended is as follows :—

Ostend, 15 (*sic*) Feb., 1697.

We have an account from Dunkirk by Jo. Vincke (master of a vessel that was there), that 15 frigates, * * * * besides what were then in garrison. (*See* next paper.)

Endorsed, Mr. Vernon with advice from Ostend about the Dunkirk Privateers. Read in the Ho: Peers, 2 March 1696.

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(*f*) 2 March 1696–7. Letter from Robert Mullow, addressed to Mr. Paul Bauwens or, in his absence, to Mr. James Ball, Merchant, in London, as follows :—

Ostend, 15 Feb. 1697.

Sir, I wrote you on Sunday last under your Lady's cover, and then gave you an account of what had passed in respect to Joannes Vincke, who yesterday, God be thanked, arrived safe here * * * * * I gave Mr. Hill, our envoy, the relation of an English master that came from Dunk[irk] on Sunday last as to affairs there, which [I] doubt not he will represent to the Admiralty or Secretary of State. The same I find confirmed by Jo. Vincke, but with this addition, that 15 frigates [of] from 36 to 18 guns, under which the *Portsmouth* galley was one, were yesterday in the road, most part then sailing down channel, and the others, he believes, are now followed, except two or three that are gone to the northward, which we saw yesterday pass us. There are as many more with all speed fitting out, all extremely well manned. The *Portsmouth* has 300 aboard ; the *Milford* is to be one of the others a-fitting ; they are under 4 squadrons, the red, white, blue, and red and white, for a month he says, they are to cruise 7 or 8 together, and then may separate according to their pleasures. The owners as well as the captains of some of them did tell him downright that they knew the *Queen* and *Mansfelt* were cruising for some of their wine ships, and after some time was to come from Plymouth with the Irishmen and Absom men, whom they were resolved to meet in his way hither, and questioned not to bring her up to Dunkirk. There is lately built 18 great long boats to put men in upon occasion, and there are 25 capers upon the stocks. Last week a small diego took two English pinks out of the road of Yarmouth, laden with butter and lead, and there is some of King James' guards at Dunk[irk], who told the English master that they expected 15,000 thereabouts speedily, besides what were then in garrison. This I thought proper to advise you of, desiring it may be communicated to his Grace the Duke of Shrewsbury or the Lords of the Admiralty, that some English frigates, good sailers, may be ordered to cruise and come up Channel with [the] *Paul* and *Mansfelt*, or I doubt we shall have great losses by these squadrons, which I doubt not their Lordships will provide against. Without I were confident of the truth, I would not write it, because I find the writing things at random causes more needless charge than it produces good effect ; besides, such persons ought not to be written to but upon good grounds. A great many here and in Holland are of opinion the Plenipotentiaries will make nothing of their session, because it is supposed the Fr[ench] K[ing's] design is only to surprise us with amusements, and for my part I am of opinion the others do believe the contrary. If you wait on his Grace pray tender him my humble respects and service, and tell him that I shall have in a few days two excellent pipes of Champ[agne], and that I am expecting both vin de St. Lawrence and Hermitage. I wish you a good voyage and rest, Sir,

Your humble Servant,

Rob. Mullow.

(*A postscript follows.*)

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Endorsed, Read 20 Feb. 1696. [From the MS. Min. it appears to have been delivered to the House in Committee this day by Mr. Vernon.]

(*g*) 22 March 1696–7. Papers delivered into the Select Committee by Sir Alexander Rigby this day (Com. Book) as follows :—

(*g*)[1] 22 March 1696-7. Names of persons refused Letters of Mart and others illtreated by the Admiralty :

(1) Persons which have been refused Letters of Mart by the Admiralty.

Sir Joseph Herne, in King's Arms Yard, Coleman Street.
Mr. Charles Peers, in Bury Street.
Mr. Antho. Stratton, Thames Street, near Billingsgate.
Mr. Antho. Forti, near Mincing Lane.
Mr. Hum : Radburne, to be heard on at Lloyd's coffee house, Lombard Street.
Mr. John Bateman, the solicitor on behalf of several merchants.

(2) Merchants illtreated by the Admiralty.

Mr. Robt. Heysham, at Lloyd's coffee house.
Mr. Sam : Sheppard, in Bishopsgate Street.
Mr. Antho. Forti.
Mr. John Denew, Mark Lane.
Mr. Alexr. Carnes, Budge Row.
Mr. Taylor. }
Mr. Savory. }
Mr. Edward Haistwell, Scotch Yard, Bush Lane.
Mr. John Evans, Bedford Row, near Gray's Inn Gardens.
Mr. Geo : Bodington, St. Helens.
Mr. Powell, } Garraway's coffee house.
Mr. Wallis, } Hackney.

Endorsed, Sir Alexander Rigby's Paper. Read 22 March 1696.

(*g*)[2] 22 March 1696-7. Sir Alexander Rigby's deposition about the *Herne*, and the *Ormond*, *Massareene* and *John* galleys, being the evidence he gave before the Select Committee on 18 March, reduced to writing, and delivered in this day, as follows :—I am part owner of the *Herne*, a ship of about 700 tons, 60 guns, which Sir Joseph Herne, myself and others bought at the time that Genoese and foreign embarkations fell under disparagement. Into said ship was put one Capt. Thomas Barrett, who had, in a late voyage to Leghorn, got great reputation by fighting and baffling one Mons. Dudon, commander of a French frigate fitted out at Toulon on purpose to waylay him, the history of which makes it appear to be one of the best actions that hath happened this war. Such a ship, and such a commander, tempted the merchants to load goods to a very great value, and being to go alone the Captain desired a letter of mart, whereupon application was made, but the Lords of the Admiralty refused it. [*Margin.* For points of time I refer myself to Sir Joseph Herne]. Then Sir Joseph Herne petitioned the Council, but the Admiralty so opposed it that the ship was forced to go to sea without a commission, and had gone the whole voyage thus had not the Dutch been kinder, who, at the instance of Sir Joseph Herne, granted one. The refusal of their Lordships here was thought very extraordinary, the ship being of so great a force and value, and the Captain a person who had done so much in defence of

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his former commission, as is here above mentioned. This matter passed about the time that Sir John Houblon came into the Admiralty; and many of the owners did think he was the occasion of such refusal, although, he, being a merchant, might have informed the board of the reasonableness of the thing, especially after he had been particularly acquainted therewith at his own house; which I myself did, fully answering what objections he then made me. This ship hath, my Lords, been again refused the same favour since a few months, though the Captain who commands her hath sometimes been honoured with the King's Commission, and hath served as convoy to a Newfoundland fleet. And it may be proved that at the times of refusing letters of mart to the ship *Herne*, the Admiralty granted letters of mart to other trading ships. If further particulars about this matter are required, Sir Joseph Herne and Mr. John Bateman, a solicitor, can give them. [*Margin* Augt. (96)]. In the beginning of last winter I ordered Mr. Bateman, a solicitor, to get me letters of mart for the *Ormond*, *Massareene* and *John* galleys. He endeavoured it, as he told me, but at last, when the said galleys were ready to sail, he came to my house and said that letters of mart were just then granted to the *Shrewsbury* and *Sarah* galleys, so that if I went myself, in all likelihood I might obtain the same favour for mine. I answered, I had no mind to go, for the delays and treatments myself and other merchants had met with had made me almost resolve never more to go there. However, I was at last prevailed on; and as we went along, I asked Mr. Bateman what was the reason he could not do business as formerly. He answered, that Sir Robert Rich opposed everything he appeared for, and that since his coming to the board he could never do any business with comfort. I then desired to know what cause he had given Sir Robert Rich. His reply was, none that he knew of, except that being beloved by the merchants he had hindered one Mr. Aldred, a creature of Sir Robert Rich, to fall into his way of soliciting letters of mart, protections, &c. When I was called into the board, I delivered, in writing, to Mr. Bridgeman, my desire of having letters of mart for the *Ormond*, *Massareene*, and *John* galleys. My request was no sooner read but Sir Robert Rich, after a very haughty and rough manner, told me I needed not to have brought that paper, I might have sent it; and that the board would not grant any letters of mart. I immediately retired and acquainted Mr. Bateman that what I expected was come to pass; I had been refused and affronted. He, to pacify my concern, said, if I would write unto the board praying a commission for the *John* galley, purely to privateer, possibly they might grant it. I did so, and I was called in, and Sir Robert Rich received me more civilly, and excused the not giving me commissions for the other galleys, because the King wanted seamen. I answered, it was strange to me that the ships that carried away the fewest men should then be refused commissions. The *Ormond* and the *Massareene* were as good ships as the *John*, and both together did not carry so many men; the *John* having about 100 on board, and the others 30 or 40 each. To this Sir Robert Rich made no reply, but that he was a piece of a merchant himself, and he knew that letters of mart were often got under pretence

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of going purely a privateering, when the chief design was to take freights home from Turkey and other places; and added, that if the *John* galley did so, our bonds should be sued. I answered that if they did that it would be hard, for in privateering no man could assure success, and to return without something to pay the charge would be a great burden to the owners of such privateers, and would be contrary to the practice of all other nations. However, I said, if the board would please to give me the commission, I would return it from abroad, which Sir Robert said would not excuse us if we returned home laden, or words to that effect. I then withdrew, and since that time I have not been at the board, nor do I design to trouble them any more. I am informed [that] Mr. John Bateman, the aforementioned solicitor, is refused to do any more business at the Admiralty, which I humbly conceive a thing worthy your Lordships' cognizance, for it is hard the merchants may not employ whom they please; and as in law matters every man puts his business into the management of those they know, so, I hope, men of traffic may do the like; for, till something is proved against Mr. Bateman which may justly render him incapable, it is hoped he ought not to be denied the liberty of a subject; and the rather, in regard he is a man of substance, and one who knows the practice of most offices about the Court, and is esteemed by many good merchants a punctual, honest, diligent man, and hath the experience of eleven years. March 22, 1696–7. *Signed* Alex. Rigby. *Endorsed*, Sir A. R——y's deposition about the *Herne* and the *Ormond*, *Massareene* and *John* galleys being refused Letters of Mart. Read this day.

(*h.*) 22 March 1696–7. An account of what intelligence has been received by the Admiralty concerning the French Toulon squadron from 8 Feb. 1695–6 to 1 June 1696. Feb. 8, 1695–6. We had advice by a letter of this date that the French continued their utmost diligence to get their ships at Toulon in a readiness, and that about 26 of them were out in the road, and that all hands were at work to send out the rest, and that they were also at Marseilles preparing their galleys to accompany their ships, so that by the beginning of March it was supposed they would be ready to sail; that the ships might be upwards of 60 great and small, besides attenders, with 36 galleys, being, as it was generally discoursed, first designed for Barcelona and afterwards for Brest. Feb. 11. This day we received intelligence that it was talked very much of the enemy's great preparations for the sea, but that it was not yet known what designs they were intended for; that it was certain they would have 80 ships ready by the end of March, reckoning those that are fitting at Toulon, Rochefort, Brest, Port Louis and Dunkirk, and some others fitting, as it was said, at St. Malo; that some were of opinion part of these ships were to go out to cruise, but others believed if the fleet from Toulon pass the Straits, that all these squadrons will join together at Brest, and that if Sir Geo. Rooke did not return from Cadiz quickly after them, the enemy would be in a condition to hinder the conjunction of our maritime forces. Feb. 13. A letter of this date says that the Toulon fleet was, the 3rd inst., still there, but that all their

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frigates were ready, being 50 odd sail, and waited only orders to depart. Same date. By a letter of this date, it is said that in all probability the Toulon fleet cannot be departed thence. Feb. 21st. That intelligence received this day says that the Court had sent an express to Toulon to hasten the departure of the fleet; but that whatever diligence Mons. de Chateau-renault could use it was believed it would be the 12th of the next month before they could be ready to sail, and that it was probable they might be delayed yet longer, in regard the Treasurer of the ships had not yet received the money he expected, besides it was reported that 500 seamen sent from West France to serve in the fleet have deserted on their way; that the enemy hasten very much the fitting out their fleet, and Mons. Chateaurenault would sail towards the end of this month to the Isles of Hyères, with 30 ships. The seamen are paid on board, and many think the design is against Catalonia; that though the month of March is now coming, yet there is no news that the fleet at Toulon is ready to sail; that all the vessels in the ports of Normandy are stopped, that the seamen may be taken into the King's service. Feb. 26. A letter of this date says that 50 of the enemy's men of war were fitted and got into Toulon road, and by this letter we received the list following of such of their ships as were out; that they were using all diligence to fit out other 10 ships to complete their fleet from thence to the number of 60 men of war, which might be ready to sail by the beginning of the next month.

Liste des Vaisseaux du Roi armés à Toulon l'année [16]96.

Vaisseaux.	Capitaines.	Hommes.	Canons.
Le St. Phillip - -	M. Le Compte de Chateau-Renault -	725	90
Le Tonnant - -	Le Marquis de Normand - - -	700	90
Le Conquerant - -	Le Comte de Relinquis - - -	550	80
Le Vainqueur - -	M. Cocoqten - - - - -	620	88
L'Orgueilleux - -	M. Deimblemont - - - -	650	90
La Couronne - -	My Lord Grand Prieurchefr - -	500	76
Le Bellequeux - -	M. Beaupu - - - - -	500	70
Le Prompt - -	M. de Septeme - - - - -	500	76
L'Invincible - -	M. de Belleisle - - - - -	450	66
L'Hustre - -	Chevel. il Bellefontaine - - -	450	76
L'Heureux - -	M. de Reatis - - - - -	450	70
Le Constant - -	Le Comte de la Beille - - -	450	66
Le Glorieux - -	M. Di Redeaud - - - - -	380	66
Le St. Esprit - -	M. de Chalard - - - - -	380	66
Le Fort - - -	M. de Allegre - - - - -	430	70

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Vaisseaux.	Capitaines.	Hommes.	Canons.
Le Superbe - -	Comte de la Gallisoniere - - -	450	68
Le Bourbon - -	M. Dequerne - - - - -	725	90
Le Capable - -	M. de Chabert - - - - -	350	60
Le Sanspareil - -	M. d'Abovile - - - - -	350	60
Le Brillant - -	M. de Frênes - - - - -	380	60
Le Juste - - -	M. de Campreynii - - - -	380	60
L'Aimable - -	Le Marq. de Banac - - - -	430	70
Le St. Michel - -	M. de Perenills - - - - -	350	60
Le St. Louis - -	Marqs. de Roviere - - - -	380	66
L'Agréable - -	M. de Ricour - - - - -	350	66
Le Brave - - -	M. de Genlett - - - - -	350	60
Le Courageux -	M. de Ribarette - - - - -	380	60
Le Henry - -	Le Chevr. de Villard - - -	380	66
Le Courtesan - -	Le Chevr. d'Interville - - -	380	66
L'Oseletant - -	Le Chevr. il Chaumerant - - -	420	66
L'Apollon - -	M. Le Baron d'Arris - - - -	350	56
Le Bizarre - -	M. de Pointes - - - - -	400	68
Le Hardi - - -	M. du Quisnenonier - - - -	330	54
L'Arrogant - -	M. de Sartovis - - - - -	350	54
L'Indien - - -	Monsr. De la Boissiere - - -	330	56
Le Cattrieau - -	M. de Matheux - - - -	330	54
L'Eole - - -	M. le Chevr. de la Rogiere - - -	380	66
Le Furieux -	M. de Combes - - - - -	350	66
L'Entendu - -	M. le Chevr. de Chantare - - -	350	60
Le Diamant - -	M. le Chevr. de Tozerne - - -	350	66
L'Ardent - - -	M. de la Rochlard - - - -	350	66
Le Neptune - -	Comte de Betune - - - -	280	50
Le Furon - - -	M. de Moaspon - - - -	350	60
Le Vermendois -	Le Marq. Contre Blani - - -	350	60
L'Oseurile - -	Le Marq. de Chaureud. - - -	380	68
La Perle - - -	Le Viscomte de Croloquon - - -	300	50
Le More - - -	M. Darquis - - - - -	300	50

Liste des Vaisseaux du Roi armés à Toulon l'année [16]96—*cont.* 1696.

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Vaisseaux.	Capitaines.	Hommes.	Canons.
L'Entreprenant -	M. de Traupe - - - - - -	350	58
Le Prince - -	M. de Caroly - - - - - -	350	60
Le Boxe - - -	M. le Bail de Lerane - - - -	330	52

Frigates 2, Galiotes 2, Burlots 6.

Feby. 28. This day we received advice that the cordage made at Marseilles for the ships at Toulon, consisting chiefly of great cables, would not be ready to be sent from thence in less than eight days ; that the enemy continued their utmost diligence in fitting out the fleet ; and it was believed all the ships would be at the isles of Hyères by the end of this month, and after that go to sea with the first fair wind, and it was fully believed they designed to pass the Straits, having taken provisions for two months. March 5. Advice this day received says that the enemy press very much the departure of the fleet, and it was believed they would not be there on the 10th of March 1695–6, N.S. March 5. We did also receive a further account this day that the fleet commanded by Monsr de Chateau-Renault was still at Toulon, in number about 50 sail, and that instead of two months, as was at first ordered, they had taken in provisions for four months ; but that the number of seamen was not yet complete, which retarded their departure. [March] 9th. We this day received advice that the enemy's fleet was in the road of Toulon the 29th of Feby., and that it was believed they could not be ready to sail before the 5th of this month. March 11th. By a letter of this date it is said that 7 other men of war were added to the Toulon squadron, so that their whole fleet consisted of 57 men of war, great and small, besides attenders ; that they were ready to depart whensoever they should have orders, as also their galleys : That the Count de Chateau-Renault, who commanded them in chief, was not then arrived there, but expected suddenly from Paris, as also that they intended other mariners from West France, their ships not being so fully manned as they have given them out by their lists. [March] 18. Another letter of this day's date says that the Toulon fleet was seen at the isles of Hyères the 14th or 15th instant, at anchor ; that they had put to sea, but were soon forced back by contrary winds and bad weather, which continued, so that they must consequently be still there ; that they were about 56 sail of men of war, great and small, and but meanly manned. [March] 19th. In a letter of this date it is said the enemy report they will certainly pass the Straits with the Toulon squadron. March 25. A letter of this day's date says that on the 22nd instant there were seen at the Isles of Hyères the French fleet, who were there at anchor, being detained by strong westerly winds and tempestuous weather, which still continuing, there is little probability of their getting thence in some time. [March] 26 [16]96. By a letter of this date we receive advice that the French fleet consisting of 52 frigates, 6 fireships, and 2 bomb ketches, sailed

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from Toulon the 20th instant; but that, to appearance, the wind did not many hours favour them, and that of late the weather had been boisterous, at W. and S.W., so that it was likely they might still be detained at the isles of Hyères. April 2nd. By a letter of this date it is said that on the 20th past, Mons. Chateau-Renault with the fleet put out from Toulon, but the wind did not long continue for them, so that they were forced back to the islands of Hyères, and that the weather had been upwards of a week very boisterous at W. and S.W., so that according to all appearance they were yet there for shelter, and would very likely sneak back again. April 9th. A letter of this date says that it was generally concluded the Toulon fleet are either shrunk back into port again, or fast at anchor at the islands of Hyères. April 10th. We had this day intelligence that the French had been seen the $\frac{15\text{th}}{25\text{th}}$ March before Barcelona, being counted there 45 sail, and that the $\frac{12\text{th}}{22\text{nd}}$ they parted from Toulon, being then in all 60; that nothing had been heard of them since from any of the ports, so that probably they might have felt the effects of the storms, otherwise they would be soon at Cadiz. April 12th. The French fleet came out of Toulon the 3rd March, consisting of 60 sail of men of war and 5 fireships, 8 of which were three-deck ships. Mons. Chateau-Renault, Admiral of the White and Blue, in a ship of 112 guns, and a Vice-Admiral of the White and Blue, in a ship of 100 guns; a Rear-Admiral in a ship of 60 or 70 guns; a Vice-Admiral of the Blue in a ship of 60 or 70 guns, and a Rear-Admiral in a ship of 60 or 70 guns, having a great number of men on board of all their ships. On the 4th of April, at noon, the French fleet was seen off Cape Gatt [Gata]; the five mentioned Flags were seen, but could not discover above 43 or 45 sail, which seemed to be of force for a line of battle; their number in all 61 sail. April 16. By another letter of this date we were informed that the French fleet sailed from the island of Hyères the 22nd of March, and that since the said time there were no tidings of them, but in all appearance considering the bad weather which had been, some disaster might probably befall them. April 20th. The French fleet was seen off Gibraltar, consisting of 74 sail, great and small, sailing to the westward. April 26. We received this day advice upon oath, before the mayor of Bristol, from the master of a merchant ship, that he had intelligence the 30th March last (English style) that the Toulon fleet had before that put into Almeria bay, and was departed thence in order to pass into the Ocean, and that on the 9th of April instant (same style) advice was likewise brought by three several proprias or expresses, that the said fleet having been forced back by strong westerly winds, was again put into Almeria bay and were then coming down, and that on the 11th of the same April, about noon, he arrived at Gibraltar, and the same evening sailed thence in company of six of his Majesty's ships of war returning from cruising in the Mediterranean, whereof he remembers the *Rochester*, *Lyme*, and *Adventure* to be three, having a Levant wind, and that being passed the Straits mouth the men of war parted for Cadiz, and the deponent made the best of his way home, and that the Levant wind continued with the deponent about 36 hours after his passing the Straits' mouth, so that

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he apprehends it not sufficient to bring the Toulon fleet into the Ocean; and further that he at his arrival at Gibraltar was advised that Admiral Rooke was sailed from Cadiz 10 days before. April 28th. The 24th were seen off the rock of Lisbon 10 or 12 ships standing to the northward. The 25th a fleet was seen of about 40 sail very large ships, which was concluded to be the French fleet. May 9th. By a letter of this date from off Dartmouth, we received an Information of Thomas Ford, as follows:—On Saturday the 2nd instant in the latitude of 45, Cape Finisterre then bearing south, distant 40 leagues, or thereabouts, met with a fleet of French men of war of 40 sail, whereof 34 are ships from 50 to 80 guns a picce, so near as I could judge, then steering away N.N.E., wind then W.N.W., four of them being flag-ships, that is Vice-Admiral and Rear-Admiral of the White, and Vice-Admiral and Rear-Admiral of the Blue. On Tuesday the 5th instant, being 2 leagues to the northward of Ushant, met with three French men of war, which commanded the boat on board, being ships of 40 guns, and gave an account of the Toulon fleet being arrived at Brest, they belonging to them, and when we met with the Grand Fleet they did not command our boat, but hailed us. I suppose they could not reach Brest, but are somewhere about Belleisle. Dated on board his Majesty's ship *Oxford*, off Portland, this 8th day of May, 1696. May 10th. This day we received intelligence that the 4th of May (new style) about 3 in the afternoon, passed by Lisbon the French from Toulon, as near as could be discovered about 63 sail in all, of which about 50 men of war. That about 5 in the evening came into the river of Lisbon four of our men of war, chased by a squadron of French, who afterwards followed the body of their fleet, who stood northward, not far from the shore, the wind being yesterday in the evening and all that day N.W., a fine breeze, and the weather and season such as was like to continue so, which gave hopes that the intelligence might arrive before the French fleet could get in the Channel. May 11th. This day came the advice that the *St. John Baptist* from Bilboa arrived at Plymouth the 8th instant, the master whereof gives the following information, viz.: That on Monday last, about 25 leagues S.W. from Ushant, he fell in with the French Toulon fleet, consisting of about 70 sail, 50 whereof were fighting-ships. The lieutenant of one of the French men of war was on board him, and told that they were resolved to put into the first port they could make, and therefore it is presumed they may be got into Brest before now. May 12th. By a letter of this date from off the Lizard we received an account that it was believed the enemy passed along the coast of Portugal, and though they might then be at Belleisle, yet it was probable the late east winds might have brought them to Brest. May 12. Mr. Manual Mayon de Hora, master of a Portugal ship, gave an account that on the 3rd (new style) the Toulon fleet sailed by the rock of Lisbon, northward. May 12. The following account from Capt. Bowles of the *Lyme* was sent us:—On the 2nd of April at 8 at night camc a Spanish boat with advice by letter from the Consul at Malaga, that the French fleet were seen off Almeria bay the 28th March last, plying to the westward, a copy of which letter I gave to some of the merchantmen of our company, and on the 5th of April the *Adventure* and we with the merchantmen came into the bay of

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Gibraltar. The 7th ditto we made several boards, but could get nothing, the wind blowing strong westerly, and the next day did the like ; and on the 9th ditto we heard that the French fleet were plying to the westward off Cape de Gatt [Gata] and that eight of their best sailers were got as low as Maderill [Madeira]. On the 12th April, there coming up a fresh Levant, we got through the Straits and lay off Cape Spartel to observe their motion. At 4 afternoon the 13th do. we made four sail coming down under the Barbary shore ; we made them plain to be French ships, and judged them to be their scouts. They chased us till night ; we lay by till next morning between St. Pedro and Traseldegar [Trafalgar]. The 14th at 1 afternoon espied the same 4 sail, who chased us again and forced us into Cadiz bay, where, on the 16th, we had an advice by express from Gibraltar that the French fleet was at anchor to the eastward of that place, much about where the *Lumley Castle* was lost, and the four ships that chased us were seen off Terreef [Tarifa] cruising from side to side, while their fleet lay near Gibraltar. May 14th. By a letter of this date we had advice of the return to Toulon of several men of war, which were intended to pass the Straits with Chateau-Renault's squadron, but by stormy weather were disabled ; and that one thereof was the *Neptune*, a ship of 60 guns. Extract of a letter from Mr. Thomas Ford dated the 14th of May 1696 ; received the 17th. "This serves only to acquaint your Honours that coming from Oporto in the ship, *Monts de Carmuo*, bound for Rotterdam, in the latitude of 45°, 40 leagues N. from Cape Finisterre, met with the Toulon fleet from the Straits, they being in all 40 ships, of the which I suppose 20 sail 50 guns, and the rest from 60 to 80. The 2nd day of May, they then steering N.N.E., the wind then westerly, but in a short time at N.W., and continued so for four or five days, and having seen them the day before in a storm of wind at W.N.W., they carrying their main top sails to get clear the coast of Gollizar [Galicia], they being to windward, the wind then veering more westerly. In the night made towards them as nigh as I thought convenient, and in the morning early, supposing [them] to be our English fleet from Cadiz, paid my respects to the Vice-Admiral very nigh, who took no notice of us, they unwilling to be discovered what they were, and falling astern too got clear of the rear of their fleet, they all sailing very heavily, and I willing to go more northerly, was forced to go a little touch through the rear of their fleet ; and at last when clear, and thought to have steered my own coast, met with one of their scouts a league and a half distant, who brought me to and commanded the boat on board a ship of 50 guns, where lay a dispute of half an hour, using what arguments he could to make a surprisal of us, but at last turned us off, they all being in great fear of our fleet, and had we but 25 sail of our 3rd and 4th rates they would have done their work in two hours to have destroyed them all, they all being ships that sailed very heavy, and many of them old broken-backed rotten ships. I took as great notice as I could of them, and cannot suppose that they were arrived at Brest, but believe they might gain Belleisle, or the parts near adjoining, the wind proving northerly. This I thought in duty bound to advise your Honours, and have done the like at the backside of the isle of Wight to Admiral Rooke at his going forth. May 19th. We had an

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account that on the 14th were seen in Brest water all the ships, which were 22 sail, whereof 17 or 18 great ships for the line of battle, and nine or ten of them three-decked ships, whereof four flags; and that the 16th of May were seen in Brest water about 20 sail of ships and one blue flag at the fore-topmast head; as also that, on the said 16th of May, we had an account from the officer of the *Foudriant*, being a French ship taken which sailed from Brest the 13th instant, that the Toulon fleet arrived at Brest the 5th instant, and were 47 sail of men of war of their line, besides four which were forced back to Toulon by damage at sea. The 18th instant the captain of the aforesaid prize likewise gave an account that the Toulon fleet arrived at Brest the 15th of May (N.S.), consisting of 47 men of war and some other frigates and fireships. May 27. We this day received advice that some French prisoners gave an account that the Toulon fleet arrived at Brest the 15th inst. (N.S.), in number 54, and that they joined 17 great ships that lay there ready, which was the strength of their fleet, by what could be got from the prisoners, and that they were indifferently well manned. By Command of the Commissioners, *signed* Wm. Bridgeman. *Endorsed* 22 March 1696.

(*i*.) 25 March 1697. Papers presented to the Select Committee from the Admiralty this day, pursuant to Orders of 22 March (*see* Notes above, and Com. Book of dates). They are as follows:—

(*i*)[1]. A list of H.M. Ships in the Downs on the 11th of April 1696:—

Rates.		Rates.	
1st.	*Victory.*		*Kingfisher.*
	London.		*Colchester.*
2nd.	*Duchess.*		*Newcastle.*
	Sandwich.		*Advice.*
	Albemarle.		*Windsor.*
	Ossory.		*Woolwich.*
	St. Michael.		*Tiger.*
3.	*Elizabeth.*		*Prince of Orange.*
	Burford.		*Archangel.* (hired ships.)
	Devonshire.		*Princess Anne.* (hired ships.)
	Monk.		*Loyal Merchant.* (hired ships.)
	Montague.	6th.	*Dunwich.*
	Suffolk.	5th.	*Griffin.* (fireships.)
	Cumberland.		*St. Vincent.* (fireships.)
	Expedition.		*Vulture.* (fireships.)
	Resolution.		*Hawk.* (fireships.)
	Hampton Court.		*Crescent.* (fireships.)
	Stirling Castle.		*Fortune.* (fireships.)
	Lion.		*Owner's Love.* (fireships.)
	Northumberland.		*Firebrand.* (fireships.)
	Norfolk.		*Machine.* (fireships.)
4.	*Lincoln.*		One bomb-vessel.
	Southampton.		Five brigantines.
	Severn.		

By command of the Commissioners,
Signed Wm. Bridgeman.

(*i*)[2]. Copies of Orders of 11 and 15 April from the Admiralty to Sir Cloudesley Shovell, being Nos. (56) and (62) of (*c*)[1] above.

(*i*)[3]. 25 March 1697. Answer of the Admiralty to Order of the Select Committee of 22 March (*see* Notes above) requiring an account in writing at what time the Order for the fleet's sailing

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from Cadiz was communicated to them. It appears from their books and papers that on 24 March D. Shrewsbury communicated to them a copy of a letter from Sir George Rooke, dated Cadiz, 24 Feb., wherein he owns the receipt of the King's Orders for his coming to England with his squadron, and on 9 April following a letter was received from Sir G. Rooke, dated 9 March, stating that he was ready to execute the King's Orders of 27 Jan., sent him under D. Shrewsbury's cover, and that he should put to sea with the very first opportunity of wind. *Dated* Admiralty Office, 24 March 1696–7. *Signed* W. Bridgeman. [Read this day. Com. Book.]

(*k.*) 26 March 1697. L. Haversham's abstract of letters relating to Sir G. Rooke's return from Cadiz. His Majesty sends Orders of the date Jan. 27, 1695–6, to Sir Geo. Rooke for sailing from Cadiz with the first opportunity, which were sent under the D. of Shrewsbury's cover (note by clerk—The 24th February 1695–6 is the date of Sir G. Rooke's letter to the D. of Shrewsbury, which gives notice of the receipt of his Majesty's letter of 27th January). Sir Geo. Rooke from Cadiz, March the 9th, acquaints the Lords of the Admiralty, and sends them a copy of his Majesty's Orders (note by clerk—Quære the Order). By four Orders, bearing date March 3rd, from the Admiralty, Sir Geo. Rooke is commanded to repair to Spithead, and leave there the ships that needed refitting, and, if of 50 guns and under, putting them in the best posture of defence to prevent the insults of the enemy, and that he should proceed to the Downs with the rest of the ships under his command, and continue there till further direction from the Board, and that he should send them immediate word of his arrival. And by four Orders the 6th of March he is commanded, notwithstanding former Orders, to bring with him to the Downs all the bomb vessels and fireships. The 24th of March the Admiralty is acquainted by the D. of Shrewsbury with his Majesty's Orders of 27th of January for Sir Geo. Rooke's sailing. The 30th of March Sir Geo. Rooke sails from Cadiz, as by his letter from the Lizard the 22nd of April, wherein he gives account to the Admiralty that the ordering some light frigates might turn to good account, since the Toulon squadron brought many merchant ships, and, by considering the winds and other circumstances, in his opinion the Toulon squadron must be within the Straits. On the 29th Sir Geo. Rooke acquaints the Admiralty that he had received their several Orders for sailing to the Downs, which he would punctually observe, though he feared it might not be so convenient, because Spithead was a more proper place to take out the extra naval stores, which were best done before they took in provisions; which advice if they followed, he desired Orders to be sent him to Portsmouth. On the 9th May, N.S., Mr. Tho. Ford sends an account that he fell in with the French fleet, which was 40 in line of battle, besides merchants sailing very heavily, and that they seemed to be shaken old ships, and that 25 of 3rd or 4th rate men of war would have destroyed them all. On the 24th of April the Admiralty acquaints the chief officer in the Downs of Sir Geo. Rooke's arrival off the Lizard the 22nd of April. *Endorsed* as read this day.

(*l*) 26 March 1697. Admiralty Orders between 14 Feb. 1695–6 and 1st June 1696. *Signed* W. Bridgeman. *Endorsed* as

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read this day. (*See* Notes above, of 18, 22, and 25 March, as to Toulon fleet, pp. 307, 309.) The Orders are the following :—

(1) 14 Feb. 1695-6, to Henry Greenhill, Esq., Commissioner of H.M. Navy at Portsmouth. As soon as ships fitting out at Portsmouth shall have got all their guns and stores aboard, and a fitting proportion of provisions to keep them safe at Spithead, he is to order them out thither, where they are to get the rest of their provisions and get ready for sea with all speed. *Signed* E. Russell, R. Austen, R. Rich. *Countersigned* W. Bridgeman.

(2) is No. (8) in (*c*)[1] above.

(3) 23 Feb. 1695–6, to the Commander-in-Chief of H.M. ships at Spithead and St. Helens, to use all possible diligence in carrying out yesterday's Orders (*c*[1] No. 12), ordering the various ships to sail at once when ready, tiding it, if necessary, to the Downs. *Signed* H. P., R. A., J. H. *Countersigned* J. B.

(4) is No. (9) in (*c*)[1] above.

(5) 24 Feb. 1695–6, to Capt. Aston, H. M. Master Attendant on Float, to hasten as much as possible the fitting out of all ships of war, fireships and brigantines, despatch them to the places where they are to take on board their guns, provisions, stores and fireworks, and thence to the Buoy of the Nore, apprising the Admiralty at once of anything which may obstruct their immediate despatch, and keeping them informed of the progress made. *Signed* H. P., R. A., R. R. *Countersigned* J. B.

(6) is No. (10) in (*c*)[1] above.

(7) is No. (11) „ „

(8) is No. (13) „ „

(9) is No. (15) „ „

(10) is No. (24) „ „

(11) is No. (25) „ „

(12) is No. (27) „ „

(13) is No. (34) „ „

(14) is No. (54) „ „

(15) is No. (55) „ „

(16) is No. (56) „ „

(17) is No. (57) „ „

(18) is No. (60) „ „

(19) is No. (62) „ „

(20) is No. (67) „ „

(21) is No. (76) „ „

(22) 29 April 1696. Letter from the Commissioners of the Admiralty to Sir George Rooke at Spithead, as follows :—Sir, This brings you Orders for your proceeding with the fleet into the Soundings, to which we have nothing more to add than that his Majesty is very earnest the fleet should sail as soon as 'tis possible, for, if any time be lost, you are sensible the service intended may be

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frustrated. We are, Sir, your very humble servants. *Signed* H.P., R.R., J.K.

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(23) is No. (77) in (*c*)[1] above.

(24) is No. (78) „ „

(25) is No. (81) „ „

(26) is No. (82) „ „

(27) refers to No. (65) in (*c*)[1] above, and quotes the clause directing the capture of merchant vessels brought into these seas by the Toulon squadron.

(*m*) 27 March 1696. Papers endorsed as received from Mr. Bridgeman this day. They are the following :—

(*m*)[1] Admiralty Order of 25 April 1696 to Sir Cloud: Shovell, being No. (65) in (*c*)[1] above.

(*m*)[2] Admiralty Order of 27 April 1696 to Sir George Rooke, being No. (69) in (*c*)[1] above.

(*n*) 29th March 1697. Answer of the Admiralty to Order of Select Committee of 22 March, requiring an account in writing at what time the Order for the fleet's sailing from Cadiz was communicated to them. It appears from the Books and Papers of the Admiralty that, the Board attending the King at Kensington on 1 March 1695–6, his Majesty directed that Orders should be lodged for Sir Geo: Rooke at Portsmouth and Plymouth, and that the Board should consider what might be necessary to refit any of the ships that come with him. On 24 March D. Shrewsbury communicated to them a letter from Sir Geo: Rooke, dated Cadiz, 24 Feb., wherein he owns he received the King's Orders for his coming to England with his squadron &c., as in (*i*)[3] above. *Dated* Admiralty Office, 27 March 1697. *Signed* W. Bridgeman. *Endorsed* as received from Mr. Bridgeman on 27th March and read on 29th. [*See also* Com. Book.]

(*o*) 31 March 1697. Paper *endorsed* Mr. Bateman's List of ships to whom letters of mart have been given or refused, as follows :—Letters of mart were freely granted to such trading ships as were not embargoed till about May or June, 1694, and then denied to the ship *Herne*, burthen about 700 tons, and carrying 60 guns, bound to the Straits, Capt. Thomas Barrett, commander, and, upon the denying of her, denied all others. Thereupon, in June, 1694, a petition, signed by a great number of merchants, was presented to her late Majesty and Council, praying that the Lords of the Admiralty might be directed to grant letters of mart to trading ships, as formerly ; which being referred to the Admiralty, their Lordships reported that it was fitting and convenient to grant letters of mart to trading ships of 200 tons, and 20 guns or upwards, but not to smaller ships ; and accordingly they granted two letters of mart to the *Carmarthen* and *Cloudesly* galleys. [*In margin*—beginning of July, 1694.] Thereupon application again was made to the Admiralty for a letter of mart for the *Herne*, being within the rules of the said report, which was denied, and another full stop ; but soon after a letter of mart was granted to the ship *St. Margaret*. [*In margin*—Middle or latter end of July, 1694] Then application was again made for the *Herne* and other ships, but all refused, yet two of those ships, viz., the

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Upton galley, and *Blackham* frigate, that were then asked for and denied with the *Herne*, in a little time afterwards had letters of mart granted them. [*In margin*, Sept. 1694.] And then a new application was made for the *Herne* and another ship called the *Stratford* frigate, and denied; whereupon the owners, Sir Joseph Herne and Mr. Peers, about October, 1694, petitioned her Majesty in Council for letters of mart for those two ships, and had two or three several references and orders to the Admiralty, but could not obtain letters of mart, and the *Herne* went to sea without an English commission, though, as I was informed, she had a Dutch letter of mart. [*In margin*, November, 1694.] From that time to August or September last I kept no minutes or memorandums, so cannot be particular; but I remember that in that time there hath been a great number of letters of mart granted to trading ships, I believe about a hundred; but there hath been many stops in that time, sometimes for a fortnight or a month or two, then grant them again and then stop, and then the ice would be broken again, and so on to August or Sept. 1696. [*Date in margin.*] Then letters of mart were granted to the *Shrewsbury* and *Sarah* galleys, and a few days after denied to the *Ormond* and *Massareene* galleys, but lately hath been granted to the *Hawk* frigate and 8 or 10 more trading ships. I take no notice of privateers, but such only as have license to trade. *Signed*, Jn. Bateman.

(*p*) 31 March 1697. Answers of the Commissioners of the Admiralty to Seven Questions put to them by the Select Committee on 29 March (*see* Notes above, p. 312). *Dated* this day, when also they were delivered in to the Committee (*see* Notes above, p. 312). *Marked* No. (2), as being the second part of the Committee's Report, made on 14 April. They are printed *in extenso* in L. J., XVI. 154–5; but the concluding words, "of a French invasion," are omitted in the Journal entry.

(*q*) 5 April 1697. Answers of same to Six Questions put to them by the Select Committee on 31 March (*see* Notes above, p. 312). *Dated* this day, when also they were delivered in to the Committee (*ib.*). *Marked* No. (3), as being the third part of the Committee's Report, made on 14 April. They are printed *in extenso* in L. J., XVI. 156.

(*r*) 12 April 1697. Answers of same to Questions put to them by the Select Committee on 5 April (*see* Notes above, p. 312). *Dated* this day, when also they were delivered in to the Committee (*ib.*). *Marked* No. (4), as being the fourth part of the Committee's Report, made on 14 April. Printed *in extenso* in L.J., XVI. 157, with the following omissions:— In Question 2 the list of ships, which is identical with the list in (*c*)[1] 46 above, is omitted; as also the particulars annexed to Answer 2, and entitled "A List of the 49 ships mentioned in the Order of the Lords Committees of the House of Peers of the 5th April '97, with a weekly account of their stations, victuals and men, from the 2nd of March '9$\frac{5}{6}$ to the 29th April '96," are also omitted, a note in L. J. stating that they had not been entered because not read. The L. J. also omits the list

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annexed to Answer 5, which is the first annex to the Commissioners' Answers, and is as follows :—

Ships' Names.	Sailed with Admi. Russell from the Downs the 27 Feb. /95-6.	Joined the Admi. from Portsmouth the 27 Feb., off the back of the Goodwin.	Joined the Admi. from the River the 27 Feb., off the back of the Goodwin.	Joined the Admi. from the coast of Norfolk the 27 Feb., off the back of the Goodwin.	Joined the Admi. from Plymouth the 28 Feb., on the French Coast.	With the Admi. on the coast of France the 28 Feb.	Number of Men	
							Borne.	Mustered.
1.								
Victory	1	—	—	—	—	1	682	563
3.								
Devonshire	1	—	—	—	—	1	445	426
Elizabeth	—	—	1	—	—	1	380	318
Hampton Court	—	—	1	—	—	1	399	344
Northumberland	—	1	—	—	—	1	410	377
Defiance	1	—	—	—	—	1	370	342
Montague	—	—	1	—	—	1	316	215
Monk	—	1	—	—	—	1	320	296
Berwick	—	1	—	—	—	1	385	368
Captain	—	—	—	1	—	1	360	360
Mary	—	1	—	—	—	1	278	276
Royal Oak	—	—	1	—	—	1	250	212
4.								
Portland	—	—	—	—	1	1	202	205
Loyal Merchant	—	—	1	—	—	1	110	92
Centurion	—	—	—	1	—	1	226	216
Bonadventure Hired	—	—	1	—	—	1	190	186
Lincoln	—	—	—	1	—	1	195	191
Kingfisher	—	1	—	—	—	1	172	169
Severn	—	—	—	1	—	1	—	—
Norwich	—	—	—	—	1	1	209	203
Woolwich	1	—	—	—	—	1	254	254
Anglesey	—	—	—	—	1	1	240	201
Lichfield	—	—	—	—	1	1	234	206
Newcastle	1	—	—	—	—	1	189	187
Southampton	—	1	—	—	—	1	228	220
Colchester	1	—	—	—	—	1	229	226
Burlington	—	1	—	—	—	1	197	192
Princess Anne	1	—	—	—	—	1	167	154
Tiger	—	1	—	—	—	1	191	188

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Ships' Names.	Sailed with Adml. Russell from the Downs the 27 Feb. /95–6.	Joined the Adml. from Portsmouth the 27 Feb., off the back of the Goodwin.	Joined the Adml. from the River the 27 Feb., off the back of the Goodwin.	Joined the Adml. from the coast of Norfolk the 27 Feb., off the back of the Goodwin.	Joined the Adml. from Plymouth the 28 Feb., on the French Coast.	With the Adml. on the coast of France the 28 Feb.	Number of Men	
							Borne.	Mustered.
Coronation	1	—	—	—	—	1	161	155
Windsor	—	1	—	—	—	1	292	272
Advice	—	1	—	—	—	1	182	177
Prince of Orange	1	—	—	—	—	1	—	—
5.								
Ruby Prize	1	—	—	—	—	1	156	156
Prince George	—	—	—	—	1	—	104	104
Mary Galley	—	—	—	1	—	1	180	181
Virgin Prize	1	—	—	—	—	1	106	104
Smyrna Factor	1	—	—	—	—	1	—	—
6.								
Lark	1	—	—	—	—	—	—	—
Wren Pink	1	—	—	—	—	—	—	—
Martin Ketch	1	—	—	—	—	—	—	—
Henrietta Yacht	1	—	—	—	—	—	—	—
Shark Brigantine	1	—	—	—	—	—	—	—
Fireships.								
Vulture	—	1	—	—	—	1	45	44
Hawk	—	—	—	—	1	1	46	46
Griffin	1	—	—	—	—	1	50	48

There are also eight columns giving the number of days' provision on board each ship of Bread, Beer, Beef, Pork, Pease, Oatmeal, Butter, and Cheese.

(*s*) 12 April 1697. Answer of same to Questions put to them by the Select Committee on 9 April (*see* Notes above, p. 313). *Dated* this day, when also it was delivered in to the Committee. *Marked* No. (5), as being the fifth part of the Committee's Report, made on 14 April. Printed *in extenso* in L. J., XVI. 158.

(*t*) 12 April 1697. Answers of Sir Geo. Rooke to Questions put to him by the Select Committee (*see* Notes above, 26 March, p. 311, and next paper). *Endorsed* with this day's date, and read this day at the Committee (*see* Notes above, p. 313). *Marked* No. (6), as being the sixth part of the Committee's Report, made on 14 April. Printed *in extenso* in L. J., XVI. 158.

(*u*) 12 April 1697. Letter from Sir George Rooke to the Select Committee, enclosing preceding answers, *dated* Jermyn Street, this day, as follows :—My Lords, This being the first day, after

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a sharp and tedious sickness, that my physician or my friends would suffer me to look at any papers or concern myself in any kind of business, and your Lordships' Order of the 27th ultimo (with the questions inclosed) being of the first consequence, was the first papers that came to my sight and perusal; in answer to which I do humbly offer to your Lordships the inclosed, which, in regard my Journal and all papers relating to this service are before your Lordships, I hope may be particular enough for your Lordships' satisfaction, which is the earnest desire of, My Lords, Your Lordships' most obedient and humble servant. G. Rooke. [Read this day. Com. Book. *See* Notes above, p. 313.]

(*v*) 12 April 1697. Copy of Letter from Admiral Russell to the Lords of the Admiralty, dated *Victory* off Graveling, this 28th of February 1695--6, as follows :—Right Honourable, I am now at an anchor off Graveling, my Lord Berkeley half way between me and Dunkirk. I ordered Sir Cloudesley Shovell into Bullen [Boulogne] Bay, where there was no ship or bark. I sailed close along Calais, which place is crowded with all sorts of embarkations; it was impossible to count them, but I cannot judge them less than three or four hundred sail of all sorts, with their sails to the yards. I saw them very busy on shore removing guns from one place to another, and believe they took the tenders with me to be bomb-vessels. I wish two or three had been with me; possibly they might have done some execution on the ships lying so thick, which were hardly to be missed. I had two ships within half gun-shot of their batteries; several bombs and shot went over them, but did little or no mischief. In Flemish Road I see about 17 sail of ships, great and small, which I believe is all they have to convoy over the transport ships, believing, as some prisoners tell me, we had not any ships fit for the sea. Whether any thing can be done upon those ships I cannot inform you. The pilots I have talked with say they cannot be attacked as they lie. I am so perfect a stranger to the place, that I must govern myself by those that have been here, and therefore resolve, to-morrow morning, to discover, with my Lord Berkeley and Sir Cloudesley Shovell, as also the pilots. What can be attempted must be without delay, for this coast at this time of the year is no very good place to be upon. I hope the enemy's designs are frustrated, seeing such a fleet together. I can never think they will attempt crossing the sea, when you are masters of it. I believe such a squadron, from so many places in so short a time to join, was never before seen. The Plymouth ships came to me this morning. I do not see any likelihood that there will be occasion to make use of so great a fleet. If you please to consider whether, if no occasion offers, the whole shall be kept together. I think they should not be out of call, lest a greater strength is to come from West France, which for my own part I do not believe, but conclude, with the ships I see off Dunkirk, the transport vessels would have been over in a few days. I have nothing more to trouble you with. *Signed* Edw. Russell. P.S.—This comes to you by the *Smyrna Factor*, which ship I have ordered into the Downs, and to remain there for your directions, unless there be any packet to be brought to me with diligence. Enclosed I send you the List of the Ships with me,

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and to-morrow, if the weather be fair, I intend to send the *Victory* back to the Downs. I have ordered the *Mermaid* and *Jolly* to cruise off Rye Bay. E. R. *Certified* as a copy by Wm. Bridgeman. [Read this day at the Select Committee, having been delivered in by Mr. Bridgeman. *See* Notes above, p, 313.]

(*v*)[1] List, appended to preceding, of his Majesty's Ships and those of the States General now in the Fleet. *Victory*, 28 Feb. 1695–6.

English.

Rate.	Ships.	Guns.
1.	*Victory*	100
3.	*Devonshire*	80
	Elizabeth	70
	Hampton Court	70
	Northumberland	70
	Defiance	60
	Montague	60
	Monk	60
	Berwick	70
	Royal Oak	74
	Captain	70
	Mary	60
4.	*Portland*	50
	Loyal Merchant	46
	Centurion	50
	Bonadventure	48
	Lincoln	50
	Kingfisher	48
	Severn	50
	Norwich	50
	Woolwich	54
	Anglesey	50
	Lichfield	50
	Newcastle	54
	Southampton	50
	Colchester	50
	Ruby prize	44
	Advice	50

English.

Rate.	Ships.	Guns.
4.	*Prince George*	48
	Burlington	50
	Princess Anne	48
	Tiger	50
	Coronation	48
	Windsor	60
5.	*Mary* galley	40
	Virgin prize	40
	Smyrna Factor	40
	Hawk, *Griffin*, *Vulture*	fireships.

Dutch.

	De Conien	64
	Friezland	64
	Gröningen	38
	Zeeland	60
	D'Unic	92
	De Ridderschap	72
	Haarlem	64
	Soes-dike	38
	Alckmaer	72
	Prince Friso	64
	D'Amiaten	50
	Amsteedam	64
	Brander	—
	Salamander	—

Wm. Bridgeman.

(*w*) 14 April 1697.—Prefatory part of Report of Seleet Committee made this day, and printed almost *in extenso* in L. J., XVI. 153. It is *marked* (1), and, together with the Answers of the Admiralty and of Sir Geo. Rooke (Annexes *p* to *t* above), forms the Report printed in L. J., XVI. 153–8.

1083. Nov. 30. Mynors' Estate Aet.—Amended Draft of an Act for the settlement of the manor of Treyagoe in the eounty of Hereford and other the lands late of Crompton Mynors, Esquire, deeeased, and for raising and increasing of the portion of Theodosia Mynors, the daughter of the said Crompton, she being an infant of the age of seventeen years. The names of the trustees were inserted in Lords' Select Committee. No Amendment in the Commons. [Read 1ª this day. Royal Assent 11 Jan. following. L. J., XVI. 23, 55. 8 & 9 W. III. c. 7 in Long Cal.]

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Annexed :

(*a*) Paper of Lords' Amendments in Select Committee. *See* above.

(*b*) Paper containing the names of the trustees to be inserted in the Bill.

1084. Nov. 30. Horner *v.* Popham.—Paper stating that when a Petition of Mr. Horner and others is presented relating to some late proceedings in Chancery, where the question will be whether the same were formerly in judgment before and determined by the House of Lords or not, Mr. Popham desires a copy of the Petition and time to answer. [Found in MS. Min. under this day's date. *See* L. J., XVI. 119.]

1085. Dec. 7.—Ashton's Estate Act. Amended Draft of an Act to enable Sir Ralph Ashton, Bart., to supply an omission of a limitation intended in his Marriage Settlement for the benefit of his issue male. The Lords' Amendment and the Amendments made by the Commons are of a formal character. [Read 1ª this day. Royal Assent 8 March following. L. J., XVI. 32, 115. 8 & 9 Will. III. c. 20 in Long Cal. *See also* Com. Book, 11 Jan. 1696–7.]

1086. Dec. 9.—E. Bradford's Privilege (Charles Brockwell).—Certificate of E. Bradford that Charles Brockwell is his menial servant and secretary. *Dated* this day. *Signed* Bradford. *Endorsed* E. Bradford's Privilege broke, 9 Dec. 1696.

[This day the House was informed that a breach of Privilege was committed against the E. Bradford by his servant's goods being seized. *Frances Brockwell* (sworn) says her wearing clothes were taken by an attorney and constable, for diet and boarding. One Robert Loder is landlord and Joan his wife, and one Bland, an attorney. There was a constable. *Ordered*, that Robert Loder and Joan, his wife, in Dean Street in Fetter Lane, and Bland, Attorney at Law, in Wharton Court, near Holborn Bars, attend to-morrow to answer the complaint.—On 10 Dec. the House was informed that Robert Loder and Bland have submitted themselves to E. Bradford, and he desires that the proceedings may in this case be set aside. MS. Min. No entry in L. J.]

Annexed :—

(*a.*) Paper containing the names and addresses of Robert Loder and Bland, as given in the Order in Note above. Appended to preceding.

1087. Dec. 10.—Kettle *v.* Townsend. Petition and Appeal of Elizabeth Kettle, widow, and Joseph Kettle, her son, an infant, by his said mother and prochein amie. In Michaelmas Term 1686 Edward Townsend, Executor of Joseph Kettle, exhibited his Bill in Chancery setting forth that the latter had bequeathed by will to his son, the Appellant Joseph, a leasehold messuage in Cambridge, held of St. John's College there, together with twenty acres of free land, charged with an annuity of 30*l.* a year to Appellant Elizabeth, his widow, who was to have two rooms for her habitation during her widowhood; some of the household goods were left to Joseph, and the rest divided equally between the Appellant Elizabeth and Elizabeth Chary; and one John Wooton was appointed guardian to Joseph for these premises during his nonage. He also devised to Joseph 130 acres of freehold adventure lands in Waterbeach, and his freehold and copyhold lands, &c. in Cottenham, and his copyhold messuages and tenements in Landbeach and Waterbeach, with 20 acres of freehold lands in Milton

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fields, charged with some legacies, and Townsend and one William Kettle were appointed guardians of Joseph for these premises, the legatees being empowered to enter and enjoy the premises if their legacies were not paid; and the Testator, estimating that his personal estate and his lease at Denny would bring 1,500*l.*, if sold, willed that his executors Townsend and William Kettle should pay off the legacies out of that sum, and lay out the residue in lands to be settled on Petitioner Joseph. The Testator died in June 1686, having first surrendered the copyholds in Cottenham, Landbeach, and Waterbeach to the use of the will, and Townsend alone proved the will; but Elizabeth Kettle and her son insisted that there had been no surrender of the copyhold estate at Cottenham, which therefore could not be devised by the will, whereas it was in fact surrendered, and Petitioners had the surrender in their custody, or had seen it; and Petitioners entered on the said copyhold premises, worth about 30*l.* a year. Townsend's Bill therefore prayed a discovery of Testator's personal estate, and whether the copyhold premises in Harlston and Cottenham were surrendered to the use of the will, and that Petitioner Joseph and Wootton might show cause why they refused to suffer Townsend to receive the profits; and the Bill took no further notice of the copyhold lands in Waterbeach. Petitioners answered (Petitioner Joseph by John Wooton), declaring that they knew of no surrender, but that Testator had declared that the copyhold lands, which were worth 23*l.* a year, were to go to his heir-at-law. The Cause was heard before the Master of the Rolls, who on 25 May in 4 Jac. II. decreed, inter alia, that the parties should proceed to an account of the personal estate before Dr. Edisbury, one of the Masters, who found Petitioner Elizabeth entitled to 100*l.* on a bond, with interest and costs, payable by Townsend out of the personal estate, over and above her 30*l.* jointure, the remainder to be paid to Townsend to be disposed of according to the will; and Elizabeth was to account for the household goods at the Denny Abbey farm, of which Joseph was to have the part left to him by the will, the rest being divided equally between the widow and Townsend, the last share to be disposed of according to the will; and the Master reported that the stock and personal estate at the Cambridge farm, which was decreed to Joseph or his guardian, amounted to 446*l.* 7*s.* 6*d.* On 6 Feb. 1691 the cause was reheard, at Townsend's instance, before the Commissioners for the Great Seal, who decreed an account before Sir Miles Cooke, one of the Masters; Elizabeth to account for the personal estate in her hands and for the rents of the copyhold premises, and to elect between the 100*l.* and interest and the legacies left her by the will. The Master reported on 22 Jan. 1693 that the legacies amounted to 1,767*l.* 10*s.*, and Testator's personal estate and the rents during Joseph's nonage would cover all the debts, with a great overplus, but not all the legacies; and that the copyholds in Harleston and Waterbeach had not been surrendered; and the Master submitted to the judgment of the Court whether the rents thereof should be applied towards payment of the legacies. On 16 May 1694 Lord Keeper Somers decreed that they should be so applied during Joseph's nonage. On 11 June 1696 the Master, in his Report, charged Petitioner Elizabeth with the rents and profits of the unsurrendered copyhold lands, not only of Harleston in Cottenham, but also of Waterbeach, for which Townsend had made no demand by his Bill; and by the Lord Keeper's Order of 29 June 1696 Elizabeth was allowed only one-third of the sums she had paid as fines on her son's admission to these copyhold

1696. — No. 1087. lands, and nothing for the heriots she had paid; and by Order of 7 July 1696 she was ordered to pay Townsend 214*l.* 2*s.* 2*d.* Appeal against the Decrees of the Commissioners for the Great Seal and the Lord Keeper, on the ground that they gave more than the Bill prayed for, and that unsurrendered copyhold lands cannot pass by will, and pray that Edward Townsend may be ordered to answer, and for stay of proceedings in Chancery. *Signed* by both Appellants. *Countersigned* Samel. Buck, Joseph Moxon. L. J., XVI. 35.

[At the hearing, on 28 Jan. 1696–7, *Sir Thomas Powys* and *Mr. Filmer* appeared for Appellants, and stated that the question was whether Chancery should supply the defect of a surrender. *Mr. Dobyns* and *Mr. Dormer* appeared for Respondent. MS. Min. The Appeal was allowed. L. J., XVI. 85.]

Annexed.

(*a*) 22 Dec.—Answer of Edward Townsend. Testator's legacies, other than to his widow and son, were 10*l.* a year to his daughter Anne, wife of Richard White, and 200*l.* to her son Joseph White; 200*l.* to his grandson John Davies; 250*l.* to his grandchild Elizabeth Chary; 100*l.* to his grandchild Anne Prescott; 100*l.* apiece to the seven children of his daughter Elizabeth, Respondent's wife; 20*l.* to his daughter Anne, wife of John Mail, and 100*l.* apiece to her two children; 20*l.* to John Wooten, his son's guardian, and 20*l.* apiece to Respondent and his own brother William Kettle, as executors; and some small legacies, amounting to 37*l.* 10*s.*, to the poor of several villages. Respondent's co-executor refused to act; Appellants concealed the personal estate, and pretended the copyhold lands in Cottenham had not been surrendered, though they knew the fact to be otherwise. Appellants refused an offer, made to them by the Respondent in the Court below, that Joseph should have the whole estate on undertaking to pay all the debts and legacies. Appellant Elizabeth elected to accept her dower and the 100*l.* in lieu of all her demands. She had not paid the 214*l.* 2*s.* 2*d.* she had been ordered to pay. Few or none of Testator's children and grandchildren had any means of support but what was left them by his will; and Testator had been very liberal to his son Joseph, the farm at Cambridge being valued at 800*l.*, and the rest of the property at about 100*l.* a year. The Decrees complained of do not give more than was asked by Respondent's Bill. Though the suggestion that all the copyhold lands had been surrendered was a mistake, yet it was a proper case for Chancery to deal with. Prays the Appeal may stand dismissed with costs. *Signed* by Respondent. *Countersigned* Tho: Stead. *Endorsed* as brought in this day. *See* L. J., XVI. 85.

(*b*) 7 Jan. 1696–7.—Petition of Appellant Elizabeth Kettle, praying that Joseph White, of Drury Lane, Turner, may enter into Recognizance on behalf of Petitioner, who is living in Cambridge, and is not in a condition to travel. L. J., XVI. 50.

(*c*) 9 Jan. 1696–7.—Petition of Respondent, Edward Townsend, of Highgate, Brewer, for a short day for hearing the Appeal, which had been lodged merely for delay. L. J., XVI. 52.

1088. Dec. 14.—Writ of Summons (Bp. of Chichester).—Writ of Summons to John [Williams], Bishop of Chichester. *Dated* this day. [Took the Oaths this day. L. J., XVI. 38.]

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—
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1089. Dec. 14.—Privilege of Parliament (Recovery of Debts from Peers and Members of Parliament) Bill.—Draft, marked for amendment, of an Act for the greater ease of the subjects in recovering their just debts. For the preventing all delay his Majesty's subjects may receive in any of his Courts of Justice of Common Law or Equity, and for their ease in their recovery of their rights and titles to any lands, tenements, or hereditaments, and their debts, or other matter whereof they have just cause of action, Be it enacted by the King's most excellent Majesty, by and with the consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by and with the authority of the same, that, from and after the day of , any person or persons shall and may commence and prosecute any action or suit in any of his Majesty's Courts of Record, or in his High Court of Chancery, or other Court of Equity, against any peer of this realm or lord of Parliament, or against any of the knights, citizens and burgesses of the House of Commons, or against their or any of their menial servants, as well during the actual sitting of the parliament as during the time of adjournment or prorogation; and that the said Courts shall and may proceed to give judgment and award execution thereupon, any privilege of parliament to the contrary notwithstanding. Provided nevertheless that, during the time of privilege, none of the knights, citizens, or burgesses of the House of Commons shall be arrested or attached in their persons by process out of any Court whatsoever, or by virtue of any execution upon any judgment. Nevertheless, if any person or persons having cause of action against any of the said knights, citizens, or burgesses, during the time of privilege, shall take out or prosecute any writ or bill out of any of his Majesty's Courts at Westminster, to take or arrest the person of anyone who is or shall be a knight, citizen, or burgess of the House of Commons, then the sheriff or other officer having the execution of such process, upon the return thereof, shall certify and return to the Court from whence it shall issue that the person against whom the same was prosecuted was a member of the House of Commons, and upon such return shall issue an attachment and distress infinite against such member until he shall enter a common appearance or file common bail to the plaintiff's action, as, according to the course of every respective Court, ought to have been done if there had been no privilege. Provided always, and be it enacted by the authority aforesaid, that no issue joined in any action prosecuted against any lord of parliament, or any of the knights, citizens, or burgesses of the House of Commons shall be tried during the actual sitting of any parliament, unless such trial be had within three miles of the town or place where the said parliament shall be then actually sitting, and no manner of process that shall issue out of the High Court of Chancery, or other Court of Equity, shall be stayed or delayed for or by reason of any privilege of Parliament; but, if any attachment or process to take the person of any member of the House of Commons shall be awarded in time of privilege, that then, upon the return that such person against whom it shall be so awarded is a member of the House of Commons, the next process thereupon shall issue, as should have done if the said person had not been a member of the House of Commons, so that always the person of any member of the House of Commons shall not be arrested or taken during the time of privilege by virtue of any such process.

[Read 1ª this day. (L. J., XVI. 38.) On 30 November the Commons, on reading a Petition of John Peshall and wife, alleging that Lord Fairfax opposed a claim of theirs against him by standing

1696. — No. 1089. on his privilege, resolved *nemine contradicente* that no member of the Commons should have any privilege, except for his person only, and communicated their Resolution to the Lords, asking for a Conference on the subject, which was at once granted. (C. J., XI. 602 ; L. J., XVI. 24.)—On 7 Dec., on taking into consideration the subject-matter of the Conference, the Lords ordered that the House should, on the 10th, consider Heads for a Bill for the greater ease of the subject in relation to privilege of Parliament. (L. J., XVI. 32.) The MS. Min. of 7 Dec. contain an expunged entry as follows : Lords Committees appointed to draw a Bill for the limiting of privilege of Parliament. On 10 Dec. a Select Committee was appointed to prepare Heads for a Bill (*ib.* 36), and on 11 Dec., in Select Committee, the L.C. Justice [of the King's Bench] and Mr. Justice Powell, being present, are directed to draw a Bill against Monday [the 14th] on the following Heads :—(1) That all privilege, except personal privilege, shall be taken away even during the sitting of Parliament ; (2) That there be the same process at Common Law against a Commoner, sitting in the Parliament, as against a Peer out of Parliament ; (3) That, if the trial must necessarily be in the country, then privilege to prohibit the same as it now does, saving all necessary preparations for the said trial ; but if at the Bar, then no privilege to be allowed, because it is near the place where the Parliament sits (Com. Book). On 14 Dec. L.C.J. Holt and Mr. Justice Powell offer to the Committee the above Bill drawn in pursuance of the directions of the 11th, which is read and, with amendments, agreed to be offered to the House (Com. Book). The Bill was reported from the Select Committee the same day and read 1ª (L. J., XVI. 38). On 11 Jan. 1696–7 the House was ordered to be in Committee on the Bill on the following Saturday ; but, before the Committee sits, the House will take into consideration the Book of Protections (*ib.* 56). A similar Order was made on 19th Jan., the Book of Protections and John Ellison's Petition, read that day, being ordered to be considered before C. W. H. (*ib.* 75) On 27 Jan. the Book of Protections was accordingly read. William Spencer's Protection vacated, E. Sussex and other lords not present. The following lords were not present when their names were read, viz. :

M. Normanby.	L. Osborne.
D. Norfolk.	L. Jeffreys.
L. Raby.	D. Northumberland.
E. Carlisle.	E. Macclesfield.
L. Weston.	E. Radnor.
L. Lovelace.	

Then the Order against written Protections was made. (MS. Min.) On 1 Feb. 1696–7, in C. W. H., M. Halifax in the Chair, the Title and Preamble were read and postponed, and, after the 25th March 1697 had been filled in for the commencement of the Act, the first Clause was read as amended, and, after debate, the question whether it should stand part of the Bill was resolved in the negative. Contents 22, Not Contents 40 ; Tellers, D. Somerset and E. Marlborough. The other two Clauses read and agreed to, as also the Title and Preamble. On Report, the House agreed with C. W. H. in leaving out Clause 1, and it was afterwards ordered that the Bill should not be engrossed. (L. J., XVI. 88 ; MS. Min.)]

1090. Dec. 14. Tilley *v.* Richardson.—Petition and Appeal of John Tilley, Esqre. Petitioner was concerned to transact the passing, in 1692, of the Bill to enable Thomas Bromhall, an infant, to sell his interest in the Office of Warden of the Fleet, for payment of debts,

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which received the Royal Assent. When the Bill was in Committee in the Lords, one Thomas Richardson petitioned to be heard against it, on behalf of himself and several others who lived above 120 miles distant, but did so without their privity. Appellant, foreseeing that the infant would be ruined unless the Bill passed that Session, gave Richardson a bond of 1,000*l.* penalty for payment of 500*l.* to withdraw his opposition, and then brought his Bill in Chancery to be relieved against the bond, as being unduly and without consideration obtained; but in July 1695 the Master of the Rolls decreed that Appellant should pay by instalments, and this decree was confirmed on appeal to the Lord Keeper. Appeals against the decree, and prays that Richardson may be ordered to answer. *Signed* by Appellant. *Countersigned* Fra: Winnington, Caven: Weedon. L. J., XVI. 38.

[At the hearing, on 8 Feb. 1696–7, *Sir Francis Winnington*, for Appellant, stated that there was 11,000*l.* depending upon the Office of the Fleet. *Sir Thomas Powys* also heard for Appellant, and *Serjeant Wright* and *Mr. Dobyns* for Respondent. MS. Min. Appeal dismissed with 20*l.* costs. L. J., XVI. 92–3.]

Annexed:—

(*a*) 7 Jan. 1696–7. Answer of Thomas Richardson.—Bromhall was 8 years old at the time, and Respondent, being married to Grace, one of his three co-heirs, was concerned to see that she should not be injured by the Bill, which proposed to pay the overplus of the purchase money to Thomas Bromhall's father, William Bromhall, a person of a very mean estate, to be disposed of for the sole benefit of the infant, whereby the co-heirs would be debarred of their expectations. Accordingly Respondent gave notice of the Bill to his wife's two sisters and other relatives of the infant, who lived 100 miles away, and received directions to petition in the names of Katherine Abnett, Wm. Abnett and Richard Thorley; and, expecting to hear from his wife's two sisters, he petitioned in the names of the Abnetts and Thorley and in his own name, on behalf of the infant and the co-heirs, he himself alone signing the Petition. Appellant sent Mr. Manlove, the Warden of the Fleet, to get Respondent to withdraw his petition, and, on a bond for 500*l.* being given him, the latter withdrew on behalf of himself and his wife, and let the Abnetts and Thorley know he could not act any further for them; but he had not heard from his wife's sisters. The first bond was replaced by a second, and that by a third, on an alteration being made in the Title of the Bill. Appellant had paid Respondent 52*l.* 17*s.* 11*d.* on the bond, but delayed paying the remainder, whereupon Respondent sued him, and obtained a decree, with costs, to be taxed by Sir Miles Cooke, one of the Masters. Appellant had caused delays in the Courts below. Respondent prays the Appeal may be dismissed with costs. *Signed* by Respondent. *Countersigned* Wm. Dobyns. *Endorsed* as brought in this day. *See* L. J., XVI. 92.

(*b*) 25 Jan. 1696–7.—Petition of Appellant, who, having had the misfortune to fall under the displeasure of the House of Commons, is now actually in custody of the Serjeant at Arms. Prays therefore, that the hearing may be put off. L. J., XVI. 81.

(*c*) 3 Feb. 1696–7. Petition of same. He has been released this day from the custody of the Serjeant at Arms, but is unable to be prepared in so short a time to prosecute the Appeal. Prays for a further adjournment of the hearing. L. J., XVI. 89.

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1091. Dec. 14.—L. Hastings *v.* E. Huntingdon.—Petition of George Hastings, commonly called Lord Hastings, son and heir apparent of E. Huntingdon. Petitioner is tenant in tail of the Manor or Barony and Rectories of Bradley and Collingham and other hereditaments in Bradley, Collingham, Wyke, Bowley, Rigton, Mickiethwaite, Compton, Clifford and elsewhere, in the County of York, which he inherited from his mother Elizabeth, Countess of Huntingdon, except the parts held by his grandmother Lady Lewis for her life, for her jointure. Petitioner's mother died on 24 Dec. 1688, when Petitioner was eleven years old, whereupon the Earl, his father, as his guardian, received the rents, about 600*l.* a year, and possessed himself of the title deeds of the said lands. Petitioner, having no allowance from the Earl, or other means of support, applied to the tenants for their rents, which they refused, as the Earl insists on his privilege; and for this reason also Petitioner dares not sue them at law. Furthermore, a long term of years of part of the premises was created to enable the Earl to borrow 4,500*l.*, which has now been repaid; but the term has been assigned to friends of the Earl, instead of being surrendered or continued in trust for Petitioner. The latter is not conscious of having given any just occasion of offence to his father, and nothing but absolute necessity could enforce him to have any contest with him. Prays he may have liberty to proceed at law or in equity without incurring any breach of privilege claimed by the Earl. *Signed* Hastings. [Read this day, L. J., XVI. 38. On 21 Jan. 1696–7 *Sir Barth: Shore* was heard for Petitioner: The mortgage was satisfied. There was a promise to deliver the writings. We have witnesses to attest this declaration, I hope. The Earl of Huntingdon is only a trustee or guardian. We have an actual right, a good estate in law. We hope for your justice —Lady Lewis' deposition offered to be read. It was denied by *E. Huntingdon's Counsel. Sir Barth: Shore* heard in answer to it: We come only for support. *Sir Tho: Powys:* We hope we shall not have the Deed read before the other Counsel. Then the matter was referred to seven lords to endeavour an accommodation, as in L. J., XVI. 77. (MS. Min.) The Earl finally waived his privilege after the end of the term. L. J., XVI. 86.]

Annexed:—

(*a*) 8 Jan. 1696–7.—Answer of Theophilus, Earl of Huntingdon. The Manor and Rectory of Bardsey, called Bradley in the Petition, and the hereditaments in Rigton and Clifford belong to E. Searsdale; those in Compton to Dame Sarah Lewis as part of her jointure. In the rest, which were the inheritance of Repondent's late wife, he has an estate for his life by the courtesy of England; and the property was mortgaged for 4,500*l.*, precedent to any estate or title in the petitioner, which sum was secured by a term of 1,000 years. The mortgage was paid off by Respondent out of his own estate, and the term is, in accordance with the settlement, assigned to him to recoup himself, as it was not intended that he should discharge the mortgage out of his own money. The value of the estate is less than stated in the Petition, and Respondent has not yet nearly reimbursed himself. Petitioner has debarred himself of the maintenance and support his father formerly allowed by forsaking and disobeying him for twelve months past, and can regain it by a dutiful submission. Prays the Petition may be dismissed as groundless and vexatious. *Signed* Huntingdon. [Brought in and read this day. L. J., XVI. 51.]

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(*b*) 21 Jan. 1696–7. Lady Lewis' affidavit, in Sir Miles Cooke's hand, as follows :—This Deponent maketh oath that, many years since, coming to this city, the late Countess of Huntingdon, her daughter, acquainted her that she had given her lord leave to take up a sum of money (to the best of her remembrance the sum was 4,500*l.*) upon her estate to purchase a place called Captain of the Band of Pensioners, upon which she, this Deponent, was much concerned ; but her daughter, the Lady Huntingdon, told her there was an agreement between her and her lord that he was not to meddle with any of the profits of the place until so much money should be raised out of the profits of the place as would clear her estate. And some time afterwards she, this Deponent, coming to town, the Countess of Huntingdon, her daughter, acquainted her that her lord had paid off the mortgage from her estate, and soon after, upon the same day, the Lord Huntingdon coming into the room, his lady the Countess of Huntingdon desired him to deliver up the said mortgage deeds to this Deponent to burn them, saying to my Lord, Have you not paid off the mortgage ? He answered, Yes, yes, it was done ; and, when his lady desired him to deliver up the writings to this Deponent, he said, Yes, yes. And this Deponent has often heard her daughter, the Lady Huntingdon, say that, whenever she died, she had so settled her estate that George, her son (meaning the Lord Hastings), should have it for his present maintenance, because she found his father of that temper that he might not use her son so well as he should do, and therefore that her son might have something to maintain himself. *Signed* Sarah Lewys. *Sworn* on 20 Jan. 1696 before Sir Miles Cooke. *Endorsed* as delivered this day. [Taken by Sir Miles Cooke in pursuance of the Order of the House of 20 Jan. L. J., XVI. 76. Offered to be read this day, at the hearing, but objected to by E. Huntingdon's Counsel. MS. Min.]

1092.—Dec. 14. E. Nottingham's Privilege (Shoebridge and others). Petition of Sarah Shoebridge (the poor widow of Thomas Shoebridge, deceased), John Berryman, Robert Cock, Francis Asplin, James Allison, John Byatt, and Richard Neale. E. Nottingham has been indebted to petitioners severally for the last six years in considerable sums for work done, &c., but has been refusing or delaying payment ; and the sessions of Parliament have been so frequent that there has not been any interval of privilege long enough to enable them to sue him at law. Petitioners, fearing to be barred by the Statute for Limitations, pray leave to prosecute actions at law against him, or at least to sue out Originals, and summon him thereon, and procure a return thereof. *Signed* by Petitioners (Asplin, Byatt and Shoebridge by their marks). *Endorsed* as read this day. [On reading the Petition, Binyon and Eveling's case, 14 Car. II., was cited, and the Standing Order with regard to Originals (L. J., XVI. 38) was made, and endorsed on Petition. MS. Min. No entry of Petition in L. J.]

1093. Dec. 22.—Parliamentary Elections Regulation Bill.—Commons' Engrossment of an Act for the further regulating elections of members to serve in Parliament.

For the better securing and establishing the dignity and constitution of Parliaments, it is necessary to make provision for the election of such persons to serve in Parliament who are and shall be natural

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subjects of this realm, born within the kingdom of England or dominions thereunto belonging, having estates sufficient to support themselves in the execution of that great trust. Be it therefore enacted, &c. That no person shall hereafter be elected or returned to serve in Parliament for any county, city, borough, port, or place in the kingdom of England, dominion of Wales, or for the town of Berwick-upon-Tweed, that is not or shall not be a natural subject of this realm, born within the kingdom of England, or the dominions or territories thereunto belonging.

And be it further enacted by the authority aforesaid That every person hereafter to be elected knight of any shire in England or Wales shall at the time of such his election to serve in Parliament have, possess, and enjoy, to his own use and not in trust, an absolute estate of freehold or inheritance, or for years determinable upon life or lives, or for one and twenty years not subject to any power of revocation, or copyhold of inheritance or for life, in lands, tenements, rent-charges, or hereditaments, of the clear yearly value of five hundred pounds within the kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, or shall be at the time of such his election intituled, by some settlement or settlements before that time made without fraud or covin, and free from any power of revocation, to the next and immediate remainder expectant upon an estate for life, or for years determinable upon life, in such lands, tenements, or hereditaments of the same yearly value.

And be it further enacted by the authority aforesaid That every person hereafter to be elected to serve in Parliament for any city, borough, port, or place within the kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, shall at the time of such his election to serve in Parliament have, possess, and enjoy, to his own use and not in trust only, an absolute estate of freehold of inheritance, or for years determinable upon life or lives, or for one and twenty years not subject to any power of revocation, or copyhold of inheritance or for life, in lands, tenements, rent-charges, or hereditaments, of the clear yearly value of two hundred pounds, within the kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, or shall be at the time of such his election intituled, by some settlement or settlements before that time made without fraud or covin, and free from any power of revocation, to the next and immediate remainder expectant upon an estate for life or for years determinable upon life in such lands, tenements, or hereditaments of the same yearly value.

And be it further enacted and declared by the authority aforesaid That every person hereafter to be elected or returned to serve in Parliament for any county, city, borough, port, or place within the kingdom of England, dominion of Wales, or for the town of Berwick-upon-Tweed, not being born within the kingdom of England or the dominions thereunto belonging, or who at the time of such his election to serve in Parliament shall not have, possess, and enjoy such estate in lands, tenements, rent-charges, or hereditaments as aforesaid, or be thereunto intituled in remainder as aforesaid, is hereby declared and adjudged disabled and incapable to be elected or returned a member to serve in such Parliament. Provided always that nothing herein contained shall be construed to extend to any person or persons, not natural born subjects of this realm, who have been or hereafter shall be naturalised, so as such person or persons who have been or hereafter shall be naturalised be descended from parents who were natural born subjects of this realm, and so as they have such estate or estates as are hereinbefore required.

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And whereas, by an Act made the seventh and eighth years of his Majesty's reign for the further regulating of elections of members to serve in Parliament, and for preventing the irregular proceedings of sheriffs and other officers in the electing and returning such members, it was enacted that the proper officer, to whom the execution of the several writs of election of members to serve in Parliament do belong or appertain, shall, within three days after the receipt of the said writ of election, by himself or proper agent deliver, or cause to be delivered, such precept or precepts to the proper officer of any borough, town, corporate port or place within his jurisdiction to whom the execution of such precept doth belong, and to no other person whatsoever, under the penalty of forfeiting five hundred pounds, which time of three days being found too short for making the precept and delivery thereof to the several Mayors of the Cinque Ports, towns and members, in regard the Lord Warden generally resides in the City of London, and the Cinque Ports and members are distant in the counties of Kent and Sussex, Be it therefore enacted by the authority aforesaid That the proper officer, to whom the execution of the several writs of election of members to serve in Parliament for the Cinque Ports and their towns and members both belong, shall, within eight days after the receipt of the said writ of election, by himself or proper agent deliver, or cause to be delivered, such precept or precepts to the proper officer of every town, corporate port, or place in his jurisdiction to whom the execution of such precept doth belong, under the penalty prescribed by the said Act, anything in this or the said former Act contained to the contrary notwithstanding.

Provided nevertheless that this Act, or anything herein contained, shall not extend to exclude or disable any natural born subject of this realm, or of the dominions thereunto belonging, who by the space of seven years hath been by his profession a merchant or trader, and who by the space of twelve months next before this election as aforesaid shall have been an inhabitant with his family within any city, borough, or town having right of electing a member to sit in Parliament, from being elected and sitting as the representative of such city, borough, or town wherein such merchant or trader is an inhabitant as aforesaid, and who has had by the space of six months before his election, and who shall have at the time of his election, an estate real or personal or in both amounting to the value of five thousand pounds, who shall publicly make oath thereof, which oath shall be set down in writing and signed by the person making the same, at the time of his election, before the mayor, bailiff, or other head officer, which oath the said mayor, bailiff, or head officer is hereby empowered to administer to such merchant or trader, being an inhabitant as aforesaid.

And it is hereby declared that no person or persons whatsoever which have adventured or put in, or who hereafter shall adventure or put in, any sum or sums of money in the East India Company, or Guinea Company, or Bank of England, or other Company whatsoever, shall, for or by reason only of such adventure of moneys so put into or to be put into the said company or companies or bank as aforesaid, be adjudged, taken, or reputed to be a merchant or trader within the sense and meaning of this Act.

Provided also, and be it enacted by the authority aforesaid, that, so often as any election of a knight or knights of the shire for the county of Sussex shall be at Chichester, the Sheriff of the said county or his Deputy, at the request of one or more of the candidates, shall adjourn the Poll (after every freeholder then and there present is polled) to

1696. — No. 1093. Lewes, in the said county, for the ease of the inhabitants of the east part of the said county, any law or statute to the contrary notwithstanding. *Parchment Collection.* [Brought from the Commons this day. Motion for second reading negatived 23 Jan. L.J., XVI. 46, 81.]

Annexed :—

(*a*) 23 Jan. Petitions against the Bill from Norwich, Bridgewater, Fowey, Callington, Tregony, Penryn, New Sarum, Rye, Winchelsea, Tiverton, Weymouth and Melcombe Regis, Dorchester, Exeter, Winchester, Plymouth, Ashburton, Lyme Regis, and Barnstaple. [Read this day. MS. Min.]

1094. [Undated.] Troops in Ireland.—Petition as follows :—

To the Honorable House of Lords of the Kindom of England assembled in parlement.

Honored Lords,

The Soldiers of Major Generall La Melloniere Regiment of foot represent to the honorable house that, having served their Majesté during all the ware of Irland with all Loyallté inmaginable, not withstanding that they are obleged to cary ter Juste complaints to the feet of your honored meeting, to aske the honorable meeting Jeustice of ye wronge that is done to them.

First thowing that there is much due to them by the reeres of Irland, wiche the understand that ther Cornlle has receved with out making them any acconte ; therfore the hwoll Regiment desiere that your Lords may heare them and that you by plesse to doe them Justice.

Secondley, the late Quene of blessed memorie having given twenty shillings to all the forces that where in Irland, wich twenty shillings wee heare that the Coll : has receved ; not withs standing that give us noe accont therfor we desiere the honorable house heare us and to doe us Justice.

And in the yare 1691 ther said Coll : did cause an order att the head of the Regiment, by wich order every soldiers sould receve a hatt, a pare Bridches, tow Chars, tow Cravates, tow paires showes, and tow paires stokings, and rater the to give them the said Coll : has kept a paire Bridches, a hatt, tow Chars, tow Cravates and five paires Showes and fowre paires stokings.

Therfore, honored Lords, the said soldiers desier humblé that you wold heare them, and doe soe that there Coll : sould doe them justice and paye them what is due to them. Soe doeing wee shall allways praye for the Conservation of Your noble meeting. [Found among papers of 1696. The MS. Min. of 3 Feb. 1695–6 contain the following entry : A Letter was offered to be read, being delivered to the Speaker. Agreed that the Speaker open the letter, and declare the name in it. It being opened, there was no name. It was delivered to the Clerk and read. No entry in L. J.]

Annexed :—

(*a*) Cover of preceding, addressed to the honorable house of Lords of the Kindom of England assembled in parlement. To London. *Numbered* 14.

1095. Jan. 11. Neve's Estate Act.—Amended Draft of an Act for enabling Oliver Neve of Great Witchingham in the County of Norfolk, Esquire, to sell two houses in London, and for vesting other lands in the said County, of greater value, to the same uses. Amended in Committee by filling the blanks with the date 15 Feb. 1696. Com. Book, 20 Jan. No Amendments in the Commons. [Read 1ª this day. Royal Assent 29 Jan. L. J., XVI. 54, 86. 8 & 9 Will. III. c. 10 in Long Cal.]

Annexed :—

(*a*) 20 Jan. Consent of Francis Neve to the passing of the Bill. *Dated* 7 Dec. 1696. *Attested* by Tho. Saeheverell. [Produced in Committee this day. Com. Book.] 1696–7. — No. 1095.

(*b*) 20 Jan. Same of Tho. Townshend. *Dated* 8 Dec. *Attested* as above. [Produced in Committee this day. Com. Book.]

(*c*) 20 Jan. Same of Wm. Newson. *Dated* 9 Dec. *Attested* as above. [Produced in Committee this day. (Com. Book.]

1096. Jan. 11. Protections (L. Morley and Monteagle).—Petition of John Smith, Gent., Under-Sheriff of Middlesex, to be freed from proceedings against him for discharging one Abel Weekes, arrested at the suit of James Reyne for a debt of 500*l*., but proteeted by L. Morley. L. J., XVI. 55. *In extenso.* [*Smith*, being called in this day and sworn, said the contents of his Petition were true ; and the House then ordered Reyne to attend, and his attorney, Arthur Lowe, to be attached. MS. Min. On 19 Jan. Lowe, on his Petition (Annex (*a*) below) was discharged without fees, and the House made the Order as to considering Protections, &e.* as in L. J., XVI. 75.—Smith having presented another Petition on 5 Feb. (Annex (*b*) below), Reyne and Lowe were ordered to attend on the 8th. MS. Min. ; L. J., XVI. 91. *Reyne*, being called in and told of Smith's Petition, was asked what he had to say. He then offered a Petition (Annex (*c*) below), which was read. He declared he was willing to discharge the amerciaments against the Sheriff, and forbear calling for a return of the writ against Weekes. A Paper was read, sent by the Sheriff for him to sign, and Reynes agreed to sign it. *Moved* that Reyne may proceed at law against Weekes. *L. Morley* declared that Reyne might take his remedy at law against him after a month, if Weekes did not give satisfaction ; to which the House agreed. MS. Min. ; L. J., XVI. 92.]

Annexed :—

(*a*) 19 Jan. 1696–7. Petition of Arthur Lowe, in eustody of the Serjeant-at-Arms. Petitioner caused Mr. Abel Weekes, formerly a brewer, to be arrested at the suit of James Reyne, executor in trust for infants, not knowing Mr. Weekes to be a menial servant to any peer, for which offence he begs pardon of the House and of L. Morley. The Sheriff, on being called on for a return of the writ, put Petitioner off on the plea that he must advise with Counsel, but never told him that Mr. Weekes was protected. Mr. Weekes, at the time of his arrest, was, as he still is, Keeper of the New Prison, and personally attending the Sessions at Hicks' Hall. Prays to be discharged without paying his fees. L. J., XVI. 75.

(*b*) 5 Feb. 1696–7. Petition of John Smith, Gent., Under-Sheriff of Middlesex. Petitioner is given to understand that their Lordships have lately been pleased to discharge all Proteetions. This matter, however, was transacted before such Order, and Petitioner acted purely in obedienee to their Lordships' privileges. Prays their Lordships to order the Plaintiff and his attorney to discharge the amerciaments, and forbear all further proceedings against the Sheriff. L. J., XVI. 91.

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* For further proeeedings on this Order, See Notes to Ellison's Petition of 19 Jan. (No. **1098**).

1696-7. — No. 1096. (*c*) 8 Feb. Petition of James Reyne. Petitioner's brother Robert about seven years since having lent 250*l.* on a bond to Mr. Abel Weekes, devised the same for the maintenance of two infants, and made Petitioner executor in trust for them. Petitioner, trusting to Weekes to repay the money, paid 150*l.* for the preferment of the infants, and gave a bond for the remaining 100*l.*, on which bond he is daily threatened to be sued. Weekes, on his arrest, showed Petitioner a pretended Protection from Justice Perry, a member of the House of Commons, Weekes not then pretending to be L. Morley's servant; but, on Petitioner's attorney serving the Sheriff of Middlesex with two 40*s.* rules to return the writ, complaint was made to the House of a breach of L. Morley's privilege. The Sheriff has never since been called on for a return of the writ, but only sent Petitioner a paper to subscribe, as to which Petitioner desired time to consult Counsel; but Mr. Smith, without waiting for Petitioner's answer, has petitioned their Lordships to discharge the amerciaments, and Weekes threatens to make an example of Petitioner. Prays their Lordships to commiserate his poor condition, and allow him to take his remedy at law against Weekes for recovery of the debt. L. J., XVI. 92.

1097. Jan. 13. Writ of Summons (V. Lonsdale).—Writ of Summons to John, Viscount Lonsdale. *Dated* 20 Oct. 1696. [Introduced this day. L. J., XVI. 57.]

1098. Jan. 19. Protections (D. Norfolk).—Petition of John Ellison, Gent. James Howard, Esq., who has a real estate, and is a Patent Officer in the Customs, a Justice of the Peace and a relation to D. Norfolk, has for some years taken unlawful means to defraud his creditors, and particularly Petitioner, who has served his Majesty many years, but is now out of commission and in great want. Petitioner on the 7th inst. having procured Howard to be arrested for a debt on bond, in the verge of the Court, by an order from the Green Cloth, Howard produced a Protection signed by D. Norfolk, and was thereupon discharged. Petitioner well knows Howard to be in a condition to pay. Prays for relief. [The House, after reading the above this day, as well as a petition of J. Smith (*See* No. **1096**), made an Order for considering it, together with the Book of Protections, on the 27th, before proceeding in C.W.H. on the Bill "for the greater ease of the subjects in recovering their just debts."* MS. Min.; L. J., XVI. 75.]

1099. Jan. 20. James' Estate Act.—Amended Draft† of an Act for vesting and settling certain [estate] *estates* of William James, Gent., in and upon trustees, to be sold for the payment of debts and making provision for himself, his wife and their children. The Lords' Amendments are, as shown on the Draft, to insert the names of the trustees, and to alter the concluding saving clause as follows:—(other than and except [the said William James, Elizabeth his wife, Roger James, Elizabeth James, Jane James and Margaret James and their heirs] *all and every person and persons, and their heirs, who do, can, shall, or may claim any estate, right, title, or interest of, in, to, or out of the premises or any part thereof, by, from or under the said William James, John James his brother, John James his father, Roger James his grandfather, all or either of them*). The Commons' Amend-

* *See* No. **1089**, 14 Dec. 1696.

† Omissions are shown by square brackets and additions by italics.

ments, which are mainly drafting ones, are given in C. J., XI. 723–4. [Read 1ª this day. Royal Assent 8 March. L. J., XVI. 76, 115. 8 & 9 Will. III. c. 31 in Long Cal.]

1100. Jan. 20. Milward's Estate Act.—Amended Draft of an Act for the vesting of certain lands of William Milward, in the County of Hereford, Clerk, in trustees, for payment of debts. The Lords' Amendments (Com. Book, 4 Feb.) are purely drafting ones, as are also the two Amendments of the Commons (C. J., XI. 721). [Read 1ª this day. Royal Assent 8 March. L. J., XVI. 76, 115. 8 & 9 Will. III. c. 26 in Long Cal.]

Annexed :—

(*a*) 4 Feb. 1696–7.—Consents of William and Anne Milward (the latter by her mark) to the passing of the Bill. *Dated* 25 Jan. 1696–7. *Attested* by Jno. Kidley, Junr., Thomas Gwatkins, William Havard, John Hodges, William Street, Thomas Paine and Charles Rocke. [Read in Committee this day. Com. Book.]

(*b*) 5 Feb.—Lords' Amendments to the Bill. [Made in Committee, 4 Feb. (Com. Book), and reported this day. L. J., XVI. 90.]

1101. Jan. 22. D. Ormond's Estate Act.—Amended* Draft of an Act for enabling [the present] *James* Duke of Ormond to raise money by sale of woods and making leases [of] *for* lives renewable for ever, for payment of debts, and for encouraging English Plantation in Ireland, *and for Charles, Lord Weston, Earl of Arran in the Kingdom of Ireland, to make leases of his estate in the said Kingdom.* The only Amendments by the Lords of any importance, besides those marked in the title, are to insert in the first enacting Clause the words ("*except the prize wines or butlerage in the Kingdom of Ireland*") and ("*at the request of the respective lessee or lessees in such respective leases*"). The Commons' Amendments are given in C. J., XI. 700. [Read 1ª this day; Royal Assent 8 March. L. J., XVI. 79, 115. 8 & 9 Will. III. c. 17 in Long Cal.]

Annexed :—

(*a*) 27 Jan. Lords' Amendments to the Bill. [Made in Committee, and reported this day. Com. Book; L. J., XVI. 83.]

1102. Jan. 22. Naturalization Act (Keyser and others).—Amended Draft of an Act for naturalizing of John Keyser and others. The persons to be naturalised are :—

1. John Keyser, son of John Keyser and Susanna Maria de Ree, born at Amsterdam.
2. Jacob Banck, son of Lorens Banck and Christina his wife, born at Stockholm.
3. Jacob Oosterland, son of Abraham Oosterland and Clara van Geel, born at Haarlem.
4. Daniel Lombard, son of John Lombard and Frances his wife, born at Angiers.

The Lords' Amendments consisted in the insertion of the names of Jacob Banck (sworn 1 Feb. MS. Min.), and Daniel Lombard. In the Commons the name of Mathew Fanjoux, son of Mathew Fanjoux and Katherine his wife, born at Tours, was added. C. J., XI. 723. [Read 1ª this day. Royal Assent 8 March. L. J., XVI. 79, 115. 8 & 9 Will. III. c. 29 in Long Cal.]

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* Omissions are shown by square brackets and additions by italics.

1696–7. — No. 1103.

1103. Jan. 26. Goodwin's Estate Act.—Amended Draft of an Act to enable Nicholas Goodwin the elder, and Nicholas Goodwin the younger, to sell the manor of Winslow, in the County of Bucks, and with the moneys arising thereby, and other moneys to be advanced by the said Nicholas Goodwin the elder, to purchase lands of a greater yearly value, to be settled to the same uses as the said manor is now settled. The Lords' Amendments consisted of the insertion of the date of the commencement of the trust and of some other drafting Amendments (Com. Book, 1 Feb.). No Amendments in the Commons. [Read 1ª this day. Royal Assent 8 March. L. J., XVI. 82, 115. 8 & 9 Will. III. c. 25 in Long Cal.]

Annexed.

(*a*) 1 Feb. Consent of Richard Goodwin to the passing of the Bill. *Dated* 30 Jan. 1696–7. *Attested* by John Goodwin. [Read in Committee this day. Com. Book.]

1104. Jan. 26. Savill's Estate Act.—Draft of an Act for settling the estate of Mary Savill, an infant, upon her marriage. No Amendments in either House. [Read 1ª this day. Royal Assent 8 March. L. J., XVI. 82, 115. 8 & 9 Will. III. c. 22 in Long Cal.]

1105. Jan. 27. Martin *v.* Stephens.—Petition of Thomas Martin, the elder, Henry Morrell, Robert Bewick, Simon Brown, the elder, Simon Brown, the younger, Robert Hills, Edward Ballard, Joseph Leach, and Thomas Cottage. In 1473 Thomas Green, then vicar of Great Linton, Cambridgeshire, complaining to the master and scholars of Pembroke Hall, in the University of Cambridge, who were seized of the Rectory, that the mansion-house belonging to the vicarage was too remote from the church, the parties agreed, by indentures of 18 June 1473, that the master and scholars should have the mansion-house, and the vicar and his successors should have another messuage near the church, and ten acres of arable lands in the fields, and the tithes of 40 acres of corn, and 12*s.* annual rent, and other lesser tithes usually received by the vicar, for their whole portion of all corn and grain whatsoever; also the tithes of saffron of certain lands, and 3*s.* 4*d.* a year in lieu of all tithes of saffron; also all oblations, personal tithes, mortuaries of strangers, and all other small tithes, viz. of wool, lambs, milk, calves, flax, hemp, herbs, fruit, geese, pigs, wax and honey, for their whole and entire portion of tithes for ever, notwithstanding any other things that might after happen *de novo*. Accordingly, the vicars ever since have enjoyed the messuage and ten acres and other the matters agreed on. About 60 years ago carrots and turnips began to be sown in the common fields of Linton, but in so small quantities that the tithes of them were not demanded, but afterwards, whole fields being sown with them, the vicar for some few years received the tithes of them under the notion of small tithes; but the farmer of the Rectory applying to the College to see the vicar's endowment, and it appearing that these were a new kind of tithes happening after and not comprehended in the composition, he sued for and recovered them, and ever since, for above 20 years last, the College and their farmers of the Rectory have enjoyed them, as also the tithes of hasty-peas, which of late have been sown in the common fields in very great quantities; and, Petitioners having for 1694 sown a great many acres with peas, carrots, and turnips, and paid the tithes thereof to the farmer of the Rectory as in former years, William Stevens, Clerk, the present Vicar, sued them by English Bill in the Exchequer for the same, without making the College or farmer parties, and the Court has adjudged the

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said tithes to the Viear and not to the Impropriator, eontrary to the intent of the agreement. Pray that the Deeree may be reversed, and Stephens ordered to answer. *Signed* Thos. Martin, the elder, Robt. Bewick, Robert Hills ; *Countersigned* Con. Phipps, Edmd. Jones. L. J., XVI. 83. [The Cause was heard on 25 Feb. *Sir Thomas Powys* and *Mr. Northey* were heard for Appellant. *Mr. Serjeant Wright* (for Respondent) : The usage, we will prove, has been with us: If this tithe of green peas be taken away, the herdman has a better place than the Viear. *Mr. Dod* (for Respondent) : Carrots, &e. are a viearage tithe, and always taken so. (Depositions of Thos. Willows, &e. read). Deeree affirmed, with 10*l.* eosts. MS. Min. ; L. J., XVI. 104.]

(*a*) 6 Feb. 1696–7.—Answer of William Stephens, Clerk, Viear of Lynton. As to the agreement, neither Petitioner nor his predeeessors have ever enjoyed all the matters therein mentioned, nor have Appellants proved the same, or paid any tithes, as they allege, except to the farmer. Respondent purposely did not make the College or farmer parties, having no demand against any one but Appellants, the oeeupiers. Had he done otherwise they would have been dismissed with costs. But both the College and their lessee or farmer assisted Appellants in defending the suit. Prays that the Decree may be affirmed, and the Appeal dismissed with exemplary costs. *Signed* by Respondent ; *Countersigned* Sam. Dodd. *Endorsed* as brought in this day.

(*b*) 11 Feb.—Petition of Appellants that John Lone, of Gray's Inn, Esq., may enter into a Recognizanee on their behalf. *Signed* Thos. Marten, Robt. Bewick, Simon Browne. L. J., XVI., 95.

1106. Jan. 28. Knott's Estate Bill [H.L.].—Amended Draft of an Aet to enable trustees to sell an estate in Bread Street, London, for payment of the debts of William Knott, Esq., and settle another estate of better value in lieu thereof. Essentially the same as the Act 10 Will. III. c. 16 in Long Cal. [Read 1ª this day. Sent to the Commons 24 Feb. L. J , XVI. 85,104. No further proceedings.]

1107. Feb. 1. Sir J. Harper *v.* Attorney Gen. of Duehy of Laneaster, at the relation of Gladwin and others.—Petition and Appeal of Sir John Harpur, Baronet, an infant, by Robert Burdett, Esq., Robert Wilmot, Esq., and Henry Dyson, Gent., his Guardians, and of the said Robert Burdett, Robert Wilmot and Henry Dyson. The Relators' Information sets forth a title to the Crown in the hundred and wapentake of Wyrksworth, co. Derby, and the customary profits of lead mines there, and the Attorney General, on behalf of the Relators, claims the eustoms following, vizt. :—(1.) That any of his Majesty's subjects may get lead ore as well within the soil of any person in the wapentake as in his Majesty's soil (churchyards, dwelling-houses, gardens, orchards and highways excepted), and may possess themselves of any meere of ground in the wapentake and get ore therein, working according to the eustoms of the mines there. (2.) That, when any mines are drowned with water, the proprietors may sink shafts from the surfaee into their vein, and dig and make soughs underground in, along and through their rakes and lead mines for unwatering the same. (3.) That the miners may, by the eustom of the mines, wash their lead ore upon the rakes or vein where the same has been got, where the mine is at a distance from water, always keeping the earth and rubbish within quarter cord, or

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Annexed:—

(*a*) 22 Feb. 1696–7.—Answer of Thomas Gladwin, Esq., Thomas Legh, Esq., Gilbert Mundy, Gent., Robert Hayward, Robert Ferne, Robert Pidcock and Edward Parkes. No such decree as alleged was made by the Duchy Court on 19 November last. The Information set forth that the Crown, in right of the Duchy of Lancaster, was seized in fee of the hundred, soke and wapentake of Wirksworth and of the lead mines and customary profit and lott and cope, the lott being every thirteenth dish of ore, and the cope being 6*d.* per load of ore, accounting 9 dishes to the load, and of Lord's meers, primgapps, &c., and all mines not duly freed, and of other profits arising by the mines, and of keeping of Barmoot Courts on the mines; and that there is a custom time out of mind in the wapentake that any of his Majesty's people may become miners, as well in the soil of any person there as in his Majesty's soil (churchyards, dwelling-houses, gardens, orchards, and highways excepted), freeing the ground by paying to the Barmaster the first dish of ore (which is called a meer dish), and also lott and cope, and keeping the ground in lawful possession with stores and timber, and that such persons have gained an inheritance therein so long as they work the mines

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and keep possession ; further, that there is a custom that, when any mines are drowned, the proprietors ought to sink shafts upon their vein and work soughs, &c., in their mines for unwatering them ; and further, that the miners may wash their ore on the spot, where the mine is at a distance from water, always keeping the earth or rubbish within quarter cord or within the outside skirt or compass of the vein, and sink shafts within quarter cord, &c., of their vein for better working the mines, without hindrance from any person, which hindrance whenever practised has been stayed by injunction in the Duchy Court ; that the Respondents, then Relators, had been seized according to the said custom for above 70 years of an ancient rake, vein, or pipe of lead called the Milnclose Groves, and of divers possessions for meers of ground supposed to be rake veins, pipes or strings of lead ore in the said Milnclose and other grounds adjacent in the liberty of Wensley and soke and wapentake of Wirksworth, being the inheritance of Sir John Harpur, the Appellant's grandfather ; and that about 20 years before the Information, the lead mines being flooded, the Relators or those under whom they claim undertook to bring up a long adit from Cowley Brook to the mines, but, as the said rake vein was not then carried on to the brook by some few yards, in respect of the water troubling the vein, application was made to Sir John Harpur, who assented to a sough being made (as could have been done by custom without his assent), which accordingly the Relators did, some 17 years before the Information, at the expense of over 2,000*l.*, and thereby unwatered the mine, and brought in 400*l.* a year to his Majesty, as well by the duties arising out of the mine as by his Majesty's Customs for exportation of lead ore ; that the Defendants, now Appellants, had disturbed the works, and Mr. Burdett, Mr. Wilmot, and Mr. Dyson pretended that the closes and grounds are the inheritance of the Appellant Sir John Harpur, and threatened to spoil the sough unless the Relators would give them a considerable share of the mines, pretending further that, although the sough is in some part carried on in the vein, yet the Relators had driven it 80 yards where they had not had or taken the vein with them, and the Defendants, by the power of Harpur and Wilmot, apprehended some of the Relators' servants and indicted them for supposed riot. To this Information Sir John Harpur, by Burdett, Wilmot, and Dyson, his guardians, put in his Answer, disputing any customary right of the miners to make soughs underground in the lands of any freeholder without composition to the owner of the soil, or to wash the lead got in the freehold land in the wapentake, and stating that, the sough being continued without the consent of Sir John Harpur, and to the damage of his tenants, he had a right to stop it, but that he had never required any lead ore. To this Answer the Attorney-General, on behalf of the Relators, replied, and on 22 Feb. 1689 the Duchy Court, assisted by Justices Powell and Ventris, decreed that the Relators might work and continue the sough without hindrance, and make such shafts as were necessary for getting the lead ore, and referred to a trial at the Exchequer Bar two issues, vizt., (1) Whether the quarter-cord in a pipe work ought to be measured from the spindle or from the skirt or outside of the

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vein, and (2) Whether, where there is water in a lead mine available for washing the ore, the miners may by custom wash it amongst the earth and rubbish within quarter-cord. On 12 August 1690 the Chancellor of the Duchy Court, on Appellants' petition, further ordered that, on the Defendants depositing 5*l.* with the Registrar, the Cause should be set down for rehearing. After several postponements, the Cause was reheard 10 July 1693, when the Court declared that whatever shafts were necessary for working the mine were necessary incidents thereto, and that, before any final Order should be made, the two former issues ought to be tried as directed, and thereupon, by the advice of Sir John Turton and Sir John Powell, the then Judges Assistants, the Court referred the said two issues to a trial at the Exchequer Bar, together with two other issues, vizt. (3) Whether there be such a special custom as laid in the Information, namely, whether there was a right or custom for the miners to make soughs to unwater the mine, and (4) Whether the lead ore in the mine in question may be got with advantage any other way than by soughing. On 21 May 1694 the Duchy Court, assisted by Chief Baron Atkyns and Baron Turton, confirmed their Order of 10 July 1693 and ordered a trial at bar, giving leave to the Appellants to waive the trial of what issues they pleased, on giving notice to the Respondents; in pursuance of which, as appeared by a subsequent Order of 8 Nov. 1695, the Appellants waived the two last issues. A trial was accordingly had at the Exchequer Bar on the first two issues, and, a verdict being given on both for the Relators, the Cause was finally heard in the Duchy Chamber at Westminster upon the equity reserved on 19 November 1695, when the Court, assisted by Mr. Justice Nevill and Mr. Baron Turton, confirmed the decree of 22 Feb. 1689, and decreed that the custom for measuring the quarter-cord from the skirt of the vein, and also the custom allowing the miners to wash the ore among the rubbish, where there is water in the mine available for the purpose, as found by the verdict, should be established, and further declared, as to the two last issues, which were waived, that the miners had a right to unwater the mine, and that the ore could not be got with advantage except by soughing. The Court further granted an injunction, ordering Appellants to allow the Relators to enjoy the customs so found by the verdict, and to pay costs, the injunction, however, not to prevent Sir John Harpur and his tenants from proceeding at law as to any trespasses not warranted by the customs. This decree is just and equitable, and the award of costs against the Appellants is the more reasonable, because they have since the decree put Respondents to further charge by bringing a Bill in Chancery, as well as several actions for trespass, in order to harass them by further litigation. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents: *Countersigned* W. Rawlinson, Thos. Powys. *Endorsed* as brought in this day.

(*b*) 22 Feb. 1696–7. Answer of Edward Northey, Esq., Attorney-General to the Duchy of Lancaster. Not being concerned further than as Attorney-General for the Duchy, prays to be dismissed from the Appeal. *Endorsed* as brought in this day.

(*c*) 23 Feb. 1696–7. Petition of Respondents.—His Majesty's revenue, as well as Respondents' interest, is much concerned in

the Cause, and may be considerably prejudiced if the hearing be delayed. Pray for an early day for hearing. *Signed* by Respondents Legh, Hayward and Ferne. [Read this day. L.J., XVI. 103.]

1108. Feb. 1. L. Holles' Estate Act.—Amended Draft of an Act for the speedy satisfying of the debts of Francis, late Lord Holles, deceased. The Lords' Amendment (Com. Book, 5 Feb.) is the correction of a misrecital of fact. In the Commons a verbal Amendment was made and a saving Clause for Carr Harvey and his sister Isabella inserted. C. J., XI. 707. [Read 1ª this day; Royal Assent 8 March. L. J., XVI. 87, 115. 8 & 9 Will. III. c. 19 in Long Cal.]

1109. Feb. 1. Bishop of London's (Exchange of Advowsons) Act.—Draft of an Act for the exchange of certain Advowsons between the Bishop of London and the Earl of Nottingham. No Amendments in either House. [Read 1ª this day; Royal Assent 8 March. L. J., XVI. 88, 115. 8 & 9 Will. III. c. 18 in Long Cal.]

1110. Feb. 3. Kerry's Estate Act.—Amended Draft of an Act for vesting the estate of Edward Kerry, Esq., lying in Binweston, in the County of Salop, in trustees, to discharge incumbrances thereon and to raise portions for younger children, and for confirming the marriage settlement of the said Edward Kerry. The only Amendment is a verbal one. Com. Book, 9 Feb. [Read 1ª this day; Royal Assent 8 March. L. J., XVI. 89, 115. 8 & 9 Will. III. c. 27 in Long Cal.]

Annexed:—

(*a*) 9 Feb.—Duplicate of preceding, subscribed by Edward Kerry, Sarah Kerry, Edward Kerry, Thomas Kerry, Sarah Kerry, Eleanor Powell, Henry Powell and John Hollings, as consenting thereto. Dated 1 Jan. 1696–7. *Attested* Henry Newton, John Edwards, Edmund Pryce, La: Lambe, W. Baskerville, Hen. Rathbone, J. Littleton. [Produced this day in Committee. Com. Book.]

1111. Feb. 5. Baldwin Leighton's (Warden of the Fleet) Bill.—Petition of Col. Baldwin Leighton. Richard Manlove, late Warden of the Fleet Prison, was, by Inquisition taken on 9 March 2 W. & M. at St. Clement Danes, Middlesex, by virtue of a Commission under the Great Seal, found guilty, among other great offences, of extortion, which of itself is a forfeiture of the office in fee to the Crown. Thereupon their Majesties, under the Privy Seal, granted the office to Petitioner or his deputy, which grant was stopped at the Great Seal by the Lords Commissioners, who kept Petitioner in suspense by interlocutory Orders until he complained to the King in Council, who ordered the Lords Commissioners to hear all parties speedily, and his Attorney General to report the matter as it appeared upon the hearing. Their Lordships on 18 Nov. 1690 took the opinion, as to the validity of the Inquisition, of L. C. Justice Holt, who, however, gave no opinion, declaring it was not regularly before him. No order was then made, but Manlove, or Mr. Tilley, who pretends a title to the office on Manlove's surrender, by undue practices procured three Orders, dated 26th and 28th Nov. 1690 and 25 June 1691, and delivered them in December 1692 to Mr. Aaron Pingry, one of the clerks of the Petty Bag Office, as Orders duly made in Chancery, in whose office the Inquisition was filed upon record; and Tilley desired him to enter a *Vacatur* upon the Inquisition, particularly by virtue of the last Order. Mr. Pingry, declaring the Orders to be irregular and not sufficient warrant to make such entry upon the

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Inquisition, attended the Lords Commissioners to know their pleasure, who directed him to forbear vacating. Petitioner, as soon as he had notice of the Orders being lodged with Mr. Pingry, complained to the House, but their Lordships, looking upon his Majesty's and Petitioner's right and title to be fully saved by a general as well as particular clause in the Act which Tilley was labouring for, to enable trustees for the infant heir of one Bromhall to sell the equity of redemption of the office, did not think fit to hear Petitioner, and, without making any order, left him to seek redress in the Courts below. Petitioner thereupon applied to the Lord Keeper, who, on Tilley producing at the hearing in Easter term 1694 a certificate of Mr. Pingry showing that the Inquisition was vacated by the last pretended Order, declared that, seeing it was done, though irregularly, he could do nothing in it. Petitioner, being now remediless, appeals to the House. Prays that Tilley may be ordered to answer, and a day appointed for hearing. *Signed* by Petitioner ; *Countersigned* Wi. Williams, J. Grove. [Read this day, and referred to a Select Committee to consider how far it is proper for the House to take cognizance of the matter contained in it (L. J., XVI. 91). In the Select Committee on 13 Feb. *Sir William Williams*, for the Petitioner, says the Petition is proper for your Lordships' decision how it shall be determined. This forfeiture being found by inquisition must be actually vested in the Crown. Says the Orders of the Chancery were obtained by undue practice. Here is a great abuse in the cause by Officers below. The King nor no Court but your Lordships' Judicature can relieve us. If you cannot remedy us, then there must be a failure of justice, which the Law will not endure. This is no original Cause. You are not finally to determine this matter, but you will give such direction that right may be done below by my Lord Keeper. Then you will inspect my Lord's Judgment in the case if it be not agreeable to your judgment. He cites the Duchess of Grafton's case and the Lord Chief Justice's. *Sir Francis Winnington*, for Mr. Tilley, says no erroneous proceeding in Westminster Hall was ever examined by Petition. If there be error in proceedings at law it ought to be by Writ of Error. If error on the Latin side in the Petty Bag, it ought also to be by Writ of Error ; if from the Chancery, then by appeal. Here is no failure of justice. This great Court is not on petition to examine the errors of clerks ; that is to be done by the Judges ; they to correct their officers. You can rectify the Judges' errors and the Lord Keeper's mistakes. This has been examined by the Lord Keeper. *Mr. Tilley* desires Mr. Leighton's petition, rejected 28 Jan. 1692, may be read. It is *ordered* that the Duchess of Grafton's petition and the proceedings thereon relating to the Judges of King's Bench be brought at the next meeting, also all former petitions and proceedings in this case, and search made whether petitions concerning any irregularity in Westminster Hall have been received by the House.

On 17 Feb. the proceedings in the case of the Duchess of Grafton and the Judges of the Court of King's Bench are read out of the Journal Book beginning 24 Nov. 1693. (*See* H.L. MSS., Vol. I., No. 755.) *Mr. Tilley* proposes that an Order of Chancery of 25 Junii 3° Gul. [III.] whereby the Inquisition is quashed may be read. The Order is read. He says Mr. Leighton has no authority from the Attorney or Solicitor General to complain in the King's name, nor to have said the Lord Chief Justice Holt gave no opinion. *Sir William Williams*, for Leighton, quotes Stanton's case, 14 Ed. III., fol. 30, Cotton's abridgment : Lord Holles' "Jurisdiction of Courts" fol. 2 : The

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foundation of this case is upon Magna Charta. 20 March 1640, Nash and Keniston's case in the Journal of this House: This was a petition in order to a Writ of Error. Winn and Roberts, 1664; the Lord Chancellor delaying to give opinion, the House thought it proper to have a Bill in Parliament. Sedgwick and Hitchcock's case, 21 Nov. 1691. *Mr. Tilley.* Stanton's case nothing like this; there justice was denied; here it was given; there a delay contrary to Magna Charta. *Sir William Williams* says he knows not whether the Writ of Error in Kenistou's case was before or after the petition. *Mr. Tilley.* Winn and Roberts' case the same with Stanton's. There justice was delayed, in this case it was given. *Sir W. Williams* cites the Duchess of Grafton's case, Coke's 2nd Institutes, 408; In matters of great difficulty, all causes to be adjourned before the Lords. He mentions Bracton, Fleta & Britton; 18 Ed. I., fol. 20; Ryley's Placita Parliamentar; 1668, Morley and Grenville *v.* Elwes case—31 March 1668: 29 Nov., directions given the Chancery. *Mr. Tilley.* This is an Appeal from a decree. There was a Writ of Error in D. Grafton's case, and the petition was in relation to the same: Leighton's complaint is of an officer, who has been examined by the Lord Keeper, who has power to correct; no failure here. In the case of Sedgwick there was an appeal, and the Order only amended. *Mr. Tilley* proposes that the former proceedings in this matter may be read. *Ordered*, that the clerk examine the precedents above quoted with the originals and make a copy of the same, and the copy and books be laid before their Lordships, &c.

On 24 Feb. the clerk having abstracted the precedents and produced the books, the precedents and the paper drawn by the clerk are read and compared, and to be reported. *Col. Leighton* says he has further precedents to offer, which he desires may be read, and delivers in four. Copies are ordered to be delivered to Mr. Tilley, and he and Col. Leighton to be heard what they have to say to them.

On 26 Feb. *Mr. Brunskell*, for Col. Leighton, opens the precedents delivered in the last day, viz.:—1° R. II. n. 28, Touch[ant] les countes de March et de Sarum. 15 R. II. n. 23, The petition of the Dean and Chapter of Lichfield: 8 Ed. II. n. 48, The petition of Isabel, wife of Hugh Bardolph: 8 Ed. II. n. 38, Jeffery Hartlepool's petition.

The last-mentioned precedent is read. *Mr. Tilley:* This was a petition to bring up the Record before the Lords in order to a final judgment after the Writ of Error. *Mr. Brunskell* opens the precedent of Isabel, wife of Hugh Bardolph. *Mr. Tilley:* This is nothing like Col. Leighton's case. The King cannot be petitioned against but in Parliament. If the King disseizes a man of his estate, it is proper to apply to Parliament. The precedent of the Count March, &c. opened. *Mr. Tilley:* It is implied there was a Writ of Error, because he says a *Scire facias* was directed. *Brunskell:* In all records where there is a Writ of Error there are the whole proceedings. The precedent of the Dean and Chapter of Lichfield opened. *Tilley:* Here a *Scire facias* is prayed to assign errors. This explains the last precedent. The suit is still depending till execution is taken out. *Brunskell:* A *Scire facias* is sometimes granted on a petition as well as on a Writ of Error. Our case being on the Plea side in Chancery, we cannot bring a Writ of Error, and an appeal does not lie, so that we can only complain of failure of justice. *Mr. Tilley:* It appears, by implication, there were Writs of Error in the case of these petitions.

On 2 March, Col. Leighton's Petition and the Order of Reference were read. The precedents offered in French and Latin at the last

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Annexed :—

(*a*) 24 Feb. Extract from Rolls of Parliament of 1 Ric. II. No. 28, "touchant les countes de March et de Sarum." Rolls of Parliament III. 7, 8, *in extenso*. *Certified*, "Extract : per nos, P. Brunskell, Jo : Higgons ; Convenit cum Recordo, Wi : Petyt." [Delivered in, with the three following papers, by Col. Leighton this day.]

(*b*) 24 Feb. Extract from Rolls of Parliament of 15 Ric. II. No. 23. The Petition of the Dean and Chapter of Lichfield. Rolls of Parliament III. 289, *in extenso*. *Certified* as preceding paper.

(*c*) 24 Feb. Extract from Rolls of Parliament of 8 Ed. II. No. 38. Petition of Jefferey Hartlepool. *Certified* as preceding paper.

(*d*) 24 Feb. Extract from Rolls of Parliament of 8 Ed. II. No. 48. Petition of Isabel, wife of Hugh Bardolf. *Certified* as preceding paper.

(*e*) 18 March 1696–7. Report from the Lords' Committees appointed to consider how far it is proper for the House to take cognizance of the matter contained in the Petition of Colonel Leighton, vizt. :—

Ordered to Report :

That their Lordships have heard Counsel, as well for the said Col. Leighton as for John Tilley, Esq., who conceived himself concerned in the matter complained of in the said Petition.

That the Petitioner's Counsel offered the precedents following, to induce their Lordships to be of opinion that the said Petition was proper for the cognizance of the House, vizt. :—

14 Edw. III. Cotton's Abridgments, Fol. 30. Sir Jeoffrey Stanton complained of delay by Demurrer in the Court of Common Pleas, and prayed by Petition to have the matter examined by the Peers, and to have judgment ; after which the House sent the King's Writ under the Great Seal to the Judges, containing the whole matter, willing them to proceed to judgment without delay. After that an *Alias* was sent, of the same nature, or else the Judges to signify the cause ; but, they doing nothing therein, the House, upon another Petition of the said Stanton, sent their Clerk to require the Judges to proceed to judgment, or, if they could not for difficulty, then to bring up the whole Process and Record, which they accordingly did, and afterwards a Writ under the Great Seal was sent to the said Judges to give judgment.

Coke 2 Institutes, Fol. 408. Matters of great difficulty were in ancient time usually adjourned into Parliament, to be resolved and decided there.

20 March 1640. Nash brought a Writ of Error in Parliament, but delayed to assign his Errors, though twice ordered so to do.

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Then petitioning, pretending the Record is not fully removed, the Lord Chief Justice was ordered to certify the Original Writ, *Venire facias, distringas et nomina Juratorum*, and, in case the same shall not be so returned, the Record shall be remitted.

29 November 1664. In the case upon the Petition of Mr. Roberts against Mr. Wynn, it was ordered that direction be given to the Lord Chancellor to proceed to make a speedy decree according to equity and justice, notwithstanding there be not any precedent in the case.

21 November 1691. In the case of Mr. Hitchcock against Mr. Sedgwick, Ordered that the Judgment of the House made the 20th December 1690 be amended.

24 November 1693. A Writ of Error was brought in between Mr. Holt and Mr. Bridgman. The same day a Petition of the Duchess of Grafton and Mr. Bridgman, relating to the Judges not signing a Bill of Exceptions tendered to them before judgment, whereby the Petitioners were hindered from making the matter of the said Bill part of the Record upon the said Writ of Error, was read, and the Judges ordered to put in an answer thereto, which after having been done, and Counsel thereupon heard, it was moved on the 21st of December following that the said Duchess and Mr. Bridgman may have leave to withdraw their Petition, and on the 22nd it was ordered accordingly.

11 November 1667. Upon the Petition of Mr. Morley and Mr. Grenville, praying that a Release made to Mr. Elwes, and also a dismission of their Bill in Chancery upon the hearing their Cause in that Court may be set aside, it was referred to a Committee to consider whether fit to be relieved.—11 December 1667. The said Committee reporting that the Petitioners cannot be relieved in the ordinary Courts in Westminster Hall, it was ordered that Counsel should be heard.—31 May 1668. Counsel and witnesses having been several days heard, it was adjudged, that the said Release was made upon trust, and that the decree mentioned in the Petition shall be reversed, and that the cause be remitted to the Chancery, and that the Lord Keeper do proceed thereon as upon an equitable mortgage.—29 November 1669. Upon consideration what further directions shall be given to the Court of Chancery in this case, it was resolved that Elwes should account for the mean profits of the lands holden for life, as well as of those holden in fee simple.

Rot. Parl., 8 Edw. II. No. 33. Jeffery Hartlepool petitions in Parliament, suggesting that, in a Plea begun in the Court of the Bishop of Durham between him and Ralph, the Plea was removed before the King at his suit, and there continued a long time; that afterwards the Record and proceedings therein were sent to the Bishop of Durham, against the law and custom of England, in prejudice of the King's Crown, for that no Plea had begun before the King or his justices itinerant, or otherwise ought not to be removed or sent against the law or custom aforesaid; and alleges the judgment in the Bishop's Court to be erroneous and to his disinheritance; therefore he prays relief, and that the Records may be brought in Parliament to be examined. The answer is that the Records be brought into Parliament in order to do as justice requires.

Rot. Parl., 8 Edw. II. No. 48. To our Lord the King and his Council, showeth Isabel, late wife of Hugh Baldolphe, how that

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she, at the suit of Robert Lewar, was ousted of her freehold in Eynesworth, &c. by colour of an Inquisition and Privy Seal therein mentioned, and unduly obtained, and without the knowledge of the said Isabel, for remedy wherein she hath sued in Chancery and in the Parliament, yet no right is done her; and therefore she prays the King and his Council to command that right and reason be done her in the premises, and that she be restored to her seizin in the premises, and the wrong done her redressed, according to the tenor of the Great Charter. The answer is: It seems [good] to the Great Council of our Lord the King, that the said Isabel be restored to the said tenements mentioned in the Petition, with a *salvo jure* to the King, when he shall think fit to interplead with her for the same fairly and not by surprise, for that she has showed ancient deeds and evidences of her ancestors, whereby they were seized of the said tenements.

On the Parliament Roll, 1 Ric. II. No. 48, is a recital of a Petition of William Montague, E. of Salisbury, complaining of an erroneous recovery had in the King's Bench by one Roger Mortimer, late Earl of March, praying the matter may be examined and restitution awarded; whereupon, as saith the Record, the Chief Justice of the King's Bench was commanded to bring the Record of the said Judgment into Parliament, which he did, and a *Scire facias* was awarded to the other party to appear in the next Parliament to abide further order.

On the Parliament Roll, 1 Ric. II. No. 23, it appears that the Dean and Chapter of Lichfield exhibited their Petition in Parliament in these words:—To our Sovereign Lord the King, and to our noble Lords in this present Parliament, humbly complain . . . That in the Record and Process, and in recovery of Judgment in a suit which was depending before our Lord the King in the King's Bench by Writ of Error, &c., there are manifest errors to the great damage of the Petitioners. May it therefore please our Lord the King and the said Lords to cause to be brought before them the Record and Process thereof, and all things thereunto belonging, into this present Parliament, to correct and rectify the said errors, and also to cause notice to be given to, &c., to appear in this present Parliament at a certain day, to hear the said errors, &c.; and, the said Petition being read in Parliament, a *Scire facias* was awarded to the other party to appear in the next Parliament to hear the errors; and it was Ordered that the said Record and Process, with all things thereto belonging, be brought to the next Parliament for the purpose aforesaid.

That the Counsel for the Petitioner Leighton said that the above-mentioned precedents show the Petitioner's case to be properly before the Lords, for that the Inquisition found vested the office of the Warden of the Fleet in the Crown; and that the Orders of Chancery for quashing the said Inquisition were obtained by undue practices; and that the Petitioner is not relievable but by the Lords in Parliament, and, if it were not so, there would be a failure of justice, which the law would not endure; that a *Scire facias* is sometimes granted on a Petition as well as on a Writ of Error, and, this case being on the Plea side in Chancery, a Writ of Error cannot be brought, nor doth an Appeal lie, so that the Petitioner can only complain

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of failure of justice ; and, this being no original Cause, he hopes the Lords will give such directions to the Lord Keeper as right may be done to the Petitioner below.

That Mr. Tilley insisted that Col. Leighton hath not directions from the King nor Mr. Attorney-General to exhibit his Petition ; that it appears by the Order of Chancery of 25 June 3 Gul. et Mar. that the then Lords Commissioners, assisted by the Lord Chief Justice Holt, the Lord Chief Justice Pollexfen and Mr. Baron Nevill, declared their opinions that the Inquisition, upon which the forfeiture was founded, was void in law and ought to be quashed ; that Mr. Attorney, after having acquainted his Majesty with their said opinion, being present in Court when the said Inquisition was quashed and declaring he had no direction to oppose the same, it was an acquiescence of the King and Mr. Attorney ; that it is a false allegation in Mr. Leighton's Petition that the Lord Chief Justice Holt delivered no opinion in this matter.

That Stanton's case is nothing like the Petitioner's, that being a complaint for delay of justice, contrary to Magna Charta.

That there was no difficulty in the Petitioner Leighton's case, for the three Judges and Commissioners all agreed in opinion.

That the case of Nash and Keniston was upon a Writ of Error, and there is no more in the precedent than a bare alleging of diminution, which is necessary to be complained of by Petition.

The case of Wynn and Roberts was a complaint of delay in not giving judgment, but in Colonel Leighton's case judgment is given.

That Hitchcock's case was an Appeal, and the Lords on a Petition amended some words in a former Order made by them on hearing the Cause.

That in Holt and Bridgman's case there was a Writ of Error, and the Duchess of Grafton's and Mr. Bridgman's Petition was a complaint of the Judges in relation to the same.

That the precedent of Morley and Grenville against Elwes was an Appeal from a dismission of their Bill, and the judgment of the Lords was that the said dismission should be reversed.

That the precedent of Hartlepool was a Petition to bring up the Record before the Lords, in order to a final judgment after the Writ of Error.

That the precedent of Bardolph is nothing like Col. Leighton's case. If the King disseizeth a man of his estate, it is proper to apply to the Parliament by Petition.

In the precedent of the Earls of March and Salisbury, it is implied there was a Writ of Error, because a *Scire facias* was directed.

In the precedent of the Dean and Chapter of Lichfield, a *Scire facias* is prayed to assign Errors. This explains the last precedent ; the suit is still depending till execution is taken out.

It appears by implication there were Writs of Error in the cases of these Petitions.

Stat. 1 Hen. IV. c. 14. That no Appeals be from henceforth used in Parliament, but be tried by the laws of the land.

That none of the precedents come up to Mr. Leighton's case, for they are either complaints for delay of justice, or Petitions exhibited on Writs of Error or Appeals depending.

That no erroneous proceeding in Westminster Hall of any officer was ever examined by Petition.

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That, if there be error in proceedings at Common Law, it ought to be redressed by Writ of Error.

If error on the Latin side in the Petty Bag, it ought also to be by Writ of Error. If error in Chancery, then it ought to be by Appeal.

That this great Court is not on Petition to examine the errors of Clerks ; that is to be done by the Judges, and the Lord Keepers' and the Judges' mistakes are to be rectified by this Court.

That Mr. Leighton's complaint is of an officer, who hath already been examined by the Lord Keeper, who has power to correct his own officers, if they misbehave themselves ; and in this case there hath been no failure of justice. *Dated* 6 March 1696. [Made this day, and leave given to bring in a Bill. L. J., XVI. 128. *In extenso* in Com. Book, 6 March.]

(*f*) 23 March 1696–7.— Draft of an Act for the relief of Baldwin Leighton, Esq., in relation to the Office of Warden of the Fleet. Whereas, by an Inquisition duly taken the twenty-ninth day of March in the second year of his Majesty's and his late Royal Consort's reign, by virtue of a Commission in that behalf issued under the Great Seal of England, it was found that Richard Manlove, Esq., then Warden of the Prison of the Fleet, in the said Commission mentioned, and his deputy, had committed divers great offences and misdemeanours in the execution of that office, whereby the same became forfeited and in their Majesties' dispose ; And whereas, some time after the taking of the said Inquisition, their Majesties were graciously pleased to grant the said office, with the fees and profits thereof, unto Baldwin Leighton, Esq., during his good behaviour, which grant passed the Privy Seal the twenty-fifth day of April in the said year, and was prepared for the Great Seal, but, by reason of some undue practices and false allegations of the said Richard Manlove, the then Commissioners for the custody of the Great Seal delayed the sealing thereof, and on the twenty fifth of June in the third year of their Majesties' reign ordered that the said Inquisition should be quashed, which was done accordingly ; and, it appearing the said Order was unduly obtained, and the vacating the said Inquisition manifest wrong and prejudice to the said Baldwin Leighton, who has no remedy by the ordinary course of justice, and is only relievable by Act of Parliament ; May it therefore please your Most Excellent Majesty, at the humble request of the said Baldwin Leighton, That it may be enacted, and be it enacted by the King's Most Excellent Majesty, &c., That the said Inquisition shall be, and is hereby revived, and shall be adjudged, deemed and taken to be a judgment by default of the said Richard Manlove, in not traversing the same Inquisition and entering into security to prosecute his traverse within three months next after such Inquisition was duly filed upon record, according to the express meaning of the Statute made in the first year of King Henry the Eighth, intituled An Act to enlarge a Statute for the traverse of lands seized into the King's hands before Escheators ; And that the said Inquisition shall be of such and the like force and effect, and be pleaded and allowed of in all Courts and places as fully and effectually to all intents and purposes as if the same had never been quashed or made void, the said Order of the twenty-fifth of June or any other Order, Act, or proceeding, in

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relation to the vacating of the said Inquisition, to the contrary notwithstanding. [Read 1ª this day. L. J., XVI. 133. A Petition of Anthony Church against the Bill having been presented, Counsel were ordered to be heard. On 13 April *Sir Thomas Powys* was heard for the Petition, and *Sir Bartholomew Shore* for the Bill, and the *Lord Chief Justice, Common Pleas*, gave the opinion of the Judges. The consideration was then adjourned. *Ib.* 151; MS. Min. No further proceedings took place.]

(*g*) 24 March 1696–7. Petition of Anthony Church, Esq., Warden of the Fleet Prison. Petitioner, by the Order annexed (Annex (*g*[1]) below), and the several other proceedings in the Court of Chancery, can make it appear that the Inquisition was regularly quashed. Prays to be heard by Counsel against the Bill. [Read this day, and ordered to be heard. L. J., XVI. 133.]

(*g*[1]) 24 March. Copy Order of the Lords Commissioners of 25 June 3 W. & M. (made on motion by Mr. Sloane, Counsel for the Warden of the Fleet, the Attorney-General being present and not opposing), quashing the Inquisition, pursuant to previous Orders of 26th and 28th November last respecting such quashing until his Majesty's pleasure was known and cause was shown to the contrary. *Signed* Geo. Edwards, Dep. Reg. [Referred to in preceding as annexed thereto.]

(*h*) 26 March. Motion paper for Order for George Edwards and Carew Gwydott, Esquires, Deputy Registers in the Court of Chancery, to attend with their Minute Books containing the Orders relating to the Inquisition, and for the attendance of them and W. Ford, Clerk in the Court, and eleven other persons, on behalf of the Warden of the Fleet. *Noted* in another hand; My Lord Chief Justice Holt and my Lord Chief Justice Treby will be in town Saturday night, who can inform your Lordship. *Endorsed* as read this day. [The Order was made this day. L. J., XVI. 136.]

(*i*) 26 March. Petition of Baldwin Leighton, Esq. Petitioner has to examine some records, which he cannot do in time for the hearing appointed for to-morrow. Prays that the hearing may be put off to Tuesday next. [Read this day, and hearing put off to the 31st. L. J., XVI. 135.]

(*j*) 13 April 1697. Petition of Baldwin Leighton. Mr. Tilley, Warden of the Fleet, gives out that he has interest enough to put off any hearing this Session. Forasmuch as Petitioner has been at great expense, and a hearing has been ordered on this day, he prays the Order may stand for this day, and that he may be heard. [MS. Min. of date has the following entry: A Petition of Baldwin Leighton was read, praying to hear Counsel on his Bill as desired. No entry in L. J.]

1112. Feb. 5.—Panton's Estate Act.—Amended Draft of an Act for vesting part of the Estate of Thomas Panton, Esq., in Trustees, to be sold for payment of debts and securing a jointure to Mary, his now wife. The Lords' Amendments consist chiefly of the insertion of the names of Trustees. No Amendments in the Commons. [Read 1ª this day; Royal Assent 8 March. L. J., XVI. 90, 115. 8 & 9 Will. III. c. 28 in Long Cal.].

Annexed:—

(*a.*) 13 Feb.—Lords' Amendments to the Bill. [Made in Committee 12 Feb. and reported this day. Com. Book; L. J., XVI. 27.]

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1113. Feb. 5.—Burleigh *v.* Sir M. Cooke (Privilege).—Petition of Ferdinando Burleigh. Petitioner was employed last April by Sir Miles Cooke, one of the Masters in Chancery, to be solicitor for his son Peter Cooke, then a prisoner in Newgate for high treason, which Petitioner undertook, and disbursed several sums for copies of records and in searches after others, by order of Sir Miles and his Counsel, and was forced to expend other moneys; all of which Sir Miles refuses to pay, alleging himself to be protected by the House. Prays for leave to sue Sir Miles at law for his debt. [Read this day. L. J., XVI. 91.]

1114. Feb. 8.—Creditors' Relief (Privileged Places, &c.) Act.—Petition of several poor distressed Prisoners in the Prison of the Fleet. Petitioners, who are highly concerned in the Bill, pray to be heard by Counsel against it. 108 signatures. *Endorsed* as read this day and rejected. L. J., XVI. 92. [The Bill was brought from the Commons on 5 Feb. On 8 Feb. the above Petition, and on Feb. 10, 15 and 22 and March 1 several Petitions relating to the Bill were presented (*see* annexes (*a*) to (*h*).)

On 23 Feb. Counsel were heard at the Bar for the Bill, and for the Petitions of Edmond Boulter (annex (*a*)), and Anthony Smith (annex (*d*)), and the Bill was committed to a Select Committee (L. J., XVI. 103).

In Committee, on 3 March, the Judges are called in, and the first Clause, so far as concerns the bounds of the King's Bench Prison, is read. *Mr. Taylor*, under-marshal of the King's Bench Prison, produces a map of the prison and bounds thereof, and says that they have sometimes 2,000 or 2,500 prisoners, but at that time about 1,600. He is ordered to bring copies of the Rules of Court for that part of the bounds which he pretends to, which are left out of the Bill; and an Order is made for Mr. Boulter to be heard by Counsel, if he thinks fit. That portion of the Clause is postponed, and the rest of it read, and Mr. Church, Warden of the Fleet Prison, is ordered to bring copies of the Rules of the Courts of Chancery, Common Pleas, and Exchequer for the bounds of that prison. Com. Book.

On 6 March *Mr. Taylor* produces a map of the King's Bench Prison, and two Rules formerly made for enlarging the prison, viz., 1st, 21 Jac. I. (annex (*i*)), the other 22 Car. II. (annex (*j*)), which Rules are read.

Mr. Taylor says in 9 months' time he has had nearly 1,000 prisoners. *Sir Thomas Powys* says it is impossible the Marshal can afford rooms as the Bill directs at 2*s.* 6*d.* per week. The Marshal says 8*s.* 3*d.* is the most he has taken for chamber rent; for those at large he has taken 1*s.* 3*d.*, sometimes 2*s.* 6*d.* He speaks to the unreasonableness of the Clause which makes void securities taken by the Marshal for lodging or diet; as also to the Clause which directs the enrolling of the conveyances and leases of inheritance; as likewise that the Marshal may be arrested in any Court whatever as well as in the King's Bench, whereby he will be under an incapacity of looking after his prisoners. *Mr. Church*, Warden of the Fleet, offers two Rules of Courts of Common Pleas and Exchequer (annexes (*k*) and (*l*)), one of which is read. He says there are about 120 prisoners now in the house; about 200 in the Rules; he believes 400 or 500 pay chamber rent; some pay 1*s.*, some 1*s.* 2*d.*, some 1*s.* 6*d.*; the most that is paid is 3*s.* 4*d.* On 9 March the Order of Reference is read. Richard Luxford's Petition (annex (*h*)) is read, and Mr. Tilley and Mr. Luxford are called in. *Anthony Church*, being asked what he knows in relation to the latter part of Mr. Luxford's Petition, says he never heard Mr. Tilley say any one such word as has been read to him in Mr. Luxford's Petition, nor can he call to mind that anyone ever told him that Mr. Tilley ever said any such thing.

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George Lucy, being asked the same question, says he never heard Mr. Tilley speak disrespectfully of any Lord of this House, nor never told Mr. Luxford any such thing. *Anne Hancock* says that Mr. Tilley said it was only palming about 100 guineas to have half a dozen speaking Lords, and he could have anything done. This was about a month after the Queen died. She believes it was on the 19 January 1694. She says Mr. Walden offered her 200 guineas not to come in against Mr. Tilley at the House of Commons. Walden said he came from Mr. Tilley. *John Gilbert* said he had heard Mr. Tilley say that, if he had business with the House of Lords, he doubted not but he could have it done: The Lords, he said, would take bribes. Mrs. Hancock was present. This was three or four years since. The last time was about two years since. Major Walden came to Mrs. Hancock, as he said from Tilley, and told her she should have 200*l.* if she would not give evidence at the Commons' House. He lives in the Temple. Mrs. Hancock and he live together sometimes. *Susannah Kelley* says she heard a gentleman (but knows not his name) tell Mrs. Hancock Mr. Tilley would pay a debt of Guy's of 100*l.* to Gilbert, and give her 100*l.* if she would not appear at the House of Commons against Tilley; and, if Madam Hancock would not bespatter Tilley any more, he would give her an healing balsam. *Mr. Luxford* lays before the Committee Interrogatories to examine the witnesses on, which are read. *Anne Hancock*, asked as to the 1st Interrogatory, says she knows nothing; to the 2nd, says she has heard Mr. Tilley say it was but palming 100 guineas to 5 or 6 speaking Lords, and they would silence the rest. There was not one of the House of Commons but, to his knowledge, would take a bribe. To the 3rd, says that Mr. Tilley said the Judges were all such a pack of rogues, they would swallow his guineas faster than he could give them. He said the best of my Lord Keeper's perquisites was the bribes he gave him. She says Mrs. Gilbert was by when he said so. To the 6th, she says she knows nothing. *John Gilbert* says he never heard Tilley speak anything of the Lord Keeper, but he has heard him say the Judges would take bribes. *Francis Duncombe*, to the 1st Interrogatory, says he has heard Mr. Grindall speak to the effect in the said Interrogatory, but knows nothing himself. To the 2nd, he knows nothing. *Anthony Grindall* says in Oct. or Nov. 12 months he collected, at the request of the prisoners, 15*l.*, whereof Mr. Tilley had 10*l.* for coach hire, and 5*l.* was to himself and Capt. Whiting. There was a Bill then depending for relief of prisoners, and Mr. Tilley was very assisting. To the 3rd, he knows no more than the common New Year's Gifts. *Robert Maddox*, to the 1st and 2nd Interrogatories, says he knows nothing. To the 3rd, there have all along been presents to the Judges. *Mr. Luxford* says Duncombe, Maddox, and Grindall are officers in the Fleet. *Walcot Hobson*, to the 1st Interrogatory, says he knows nothing, but has heard two years since that there was money was gat[her]ed; he thinks (on recollection) it was last Session. To the 2nd, he knows nothing. To the 3rd, he knows nothing except New Year's Gifts. *John Holland* says, to the 1st Interrogatory, he has heard of money collected; he believes it was last Session of Parliament, about 10*l.* Mr. Tilley has told him. To the 2nd, he never heard of any money to any Lords lent or given, directly or indirectly; but has heard of money owing by a Member of Commons to Mr. Tilley. Says he was agent to Mr. Tilley, and hopes he shall not be asked to accuse himself. He knows not of any money given to anyone that is now Member of the House of Commons for stopping any Bill. Mr. Holland is told by my Lords that he shall not suffer for anything he shall answer as agent to Mr. Tilley. He says he knows of no presents given to any

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Members of this Parliament, but a Member of the last Parliament, viz., Mr. Waller (a Member for York), had a present of a clock left for him; but he knows not whether he had it, nor knows he the value of it. He knows of no more besides the clock given him, save twenty guineas. He believes it was that he might be favourable at the Committee for Prisons, where he was chairman. He knows of nothing more given to any other. He heard at the Committee, where he was examined, that Sir Jo. Trevor had 100 guineas; one Hobson, he thinks, spoke of it. Says he gave Waller the guineas, and left the clock for him at his lodging. He says he never heard Tilley make any reflection in his life on this Honourable House. *Nicholas Johnson* says he heard Mr. Tilley say he had presented the late Speaker's lady with 50 guineas when his Bill for sale of the Fleet was depending, and that he promised her 50 more if the Bill passed. *Walcot Hobson* knows not of any present given to any particular Member of the Commons House, either of this Parliament or the last. Says Mr. Fox, the late Warden, told him Tilly bought a repeating clock to give the chairman of the Committee. He believes the clock worth 20*l.* *John Holland* says he cannot say positively whether Duncombe or Hobson spoke of the present to Sir Jo. Trevor.

On 10 March the Marshal of the King's Bench Prison and the Warden of the Fleet were ordered to lay before the Committee the last transfers of the prisoners in their respective prisons. The Committee then proceeded with the consideration of the Bill. The Clauses relating to the Rules of the King's Bench and the Fleet are postponed. *Mr. Filmer* opens Mr. Smith's case, and offers a Clause to be added to the Bill (annex (*m*)), consideration of which is put off to the end of the Bill. *Mr. Weedon* is heard for the Warden of the Fleet. The next Clause is read and amended. *Mr. Weedon* thinks it hard for the Warden to give special bail on bringing a Writ of Error. He speaks to the Clause concerning taking securities. The Judges ordered to consider of this Clause. (Note by the Clerk. *Mem.* Robinson's petition (annex (*o*)) delivered me by the Earl of Rochester.) Com. Book. On 12 March the House ordered that the Haberdashers should be heard by the Committee on their Petition (annex (*n*)). L. J., XVI. 121. In Committee on 13 March numerous amendments were made.

On 16 March the Marshal and Warden delivered in transfers of the prisoners in their several prisons (annexes (*p*) and (*q*)). *Sir Thomas Powys* (for Mr. Boulter) speaks to the rates set by the Bill for chambers in the King's Bench. *Mr. Weedon* (for the Warden) shows the rates in the Fleet have been set by the Judges of the Common Pleas, and shows the Orders made by Lord Chief Justice Herbert touching them. *Sir Thomas Powis* offers a Clause on behalf of Mr. Boulter, and Mr. *Filmer* offers a Clause in Mr. Smith's case instead of the Clause formerly delivered in. These Clauses and others are referred to the Judges. A Clause as to privileged places paying church rates is read and withdrawn. *Mr. Weedon* offers a Clause on behalf of the Warden, which is given to the Lord Chief Baron to consider. *Major Richardson* acquaints the Committee that Mr. Tilley and Mr. Church have given him satisfaction by assigning the security they had taken, so he will not trouble the Committee with his Petition. A Petition of Joseph Robinson (annex (*o*)) complaining of the Marshal is read, and the Marshal heard. Com. Book.

On 19 March a Petition from Luxford (annex (*r*)) was read, and a protection from arrest was granted to him. L. J., XVII. 129. On 20 March a Petition of Elizabeth Leave (annex (*s*)) was also read and referred to the Committee. *Ib.* 130. On 24 March, in Committee, a

number of amendments were made, and the Quakers ordered to attend with their Clause. 1696-7.

On 27 March the *Lord Chief Baron* gives in a Proviso (annex (*w*)) brought to him by Mr. Boulter's Counsel, which, he says, will sufficiently secure the debt charged on the King's Bench, but will make the Bill ineffectual as to the King's Bench till Mr. Boulter's debt be paid. Ordered that it be part of the Report that the Committee is of opinion that Mr. Boulter's debt ought to be secured as this Clause directs. *My Lord Radnor* assures my Lords that the debt now owing by Mr. Lenthall to Mr. Boulter is more than eighteen thousand pounds. *The Lord Chief Baron* says he saw securities for 15,000*l.* of it. A saving Clause for securing a debt to Mr. Smith on the Fleet (annex (*x*)) is inserted, and two provisoes. The Lord Chief Baron offers a Clause (annex (*y*)), on behalf of Mr. Tilley, relating to mortgages on the Fleet. No. 1114.

Mr. Tilley is asked what he can say for Norwood's debt in the Clause. He says he has a report of Chancery, made in 1693, where the debt is stated. *The Lord Chief Baron* acquaints my Lords that Mr. Clements' deed for his debt mentioned in the Clause seems to be very fair. Part of the Letters Patents, 19 Car. II., to Sir Jer: Whitchcot is read. A Clause (annex (*u*)) for relief of poor prisoners for debt is read and rejected. Com. Book.

On 8 April, in Committee, Mrs. Eliz. Leave's Petition (annex (*s*)) the Order of Reference, and a Petition of John D'Berdt (annex (*a a*)) are read. Some further amendments are made, and a Clause (annex (*z*)) offered by E. Radnor added for vacating all deputations made by Mr. Lenthall without Mr. Boulter's consent. The *Quakers* are heard on their Clause (annex (*a b*)), which is rejected, and the Bill ordered to be reported. Com. Book. The Amendments made by the Committee were agreed to by the Commons and may be found in C. J., XI. 786. The Bill received the Royal Assent on 16 April. L. J., XVI. 163. 8 & 9 Will. III. c. 27. Fol. Ed.]

Annexed:—

(*a*) 10 Feb. 1696–7. Petition of Edmond Boulter, Esq. Petitioner is sole executor and devisee to the late Sir John Cutler, and is entitled under his will to his estate, upon certain trusts. Amongst other things, the office of Marshal of the Marshalsea of the King's Bench was mortgaged to Sir John by William Lenthall, Esq., as security for 10,000*l.*, which debt, together with other moneys since lent on the said security, amounts now, with interest, to 18,000*l.* Petitioner is informed that the Bill will in a great measure, if not wholly, take away this security. Prays to be heard by Counsel against the Bill. [Read and ordered as prayed. *See* notes above, p. 396. L. J., XVI. 93.]

(*b*) 10 Feb. Petition of several poor Prisoners within the Prison of the King's Bench and the Rules thereof, on behalf of themselves and all other prisoners within the said prison and Rules. The benefit of Day Rules (which the Court of King's Bench for several years past have thought fit to allow to prisoners in execution in term time, the better to enable them to attend their business in Westminster Hall and elsewhere for satisfaction of their creditors) is in effect taken away by the Bill, as also are the Rules of the said prison, which the Judges have for several years allowed of as part of the prison, the better to prevent pestilential distempers and other inconveniences, which might be occasioned by the straitness of the prison, which in the most prosperous and best times for trade has been found too little to contain a fourth part of the prisoners within the walls. By

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several other Clauses prisoners for debt are made subject to greater difficulties than in other neighbouring nations, which may prove of as dangerous consequence as the grievances intended to be redressed by the Bill. Pray to be heard by Counsel against it. 261 signatures. *Endorsed* as read this day and rejected. L. J., XVI. 93.

(*c*) 15 Feb. Petition of Edmond Boulter, Esq., for further time to be heard against the Bill. L. J., XVI. 96.

(*d*) 15 Feb. Petition of Anthony Smith, of Rotherhithe in the County of Surrey, Mariner. Thomas Bromhall in 1677 borrowed of Petitioner 500*l.*, for which he mortgaged to him some lands held at a rent of 40*l.* a year of the Mayor and Burgesses of Shrewsbury, and a lease of a small house in London. About 3 years later Bromhall died, devising the equity of redemption to his wife and executrix; and Petitioner, for a further sum paid to her, purchased the lands and obtained possession. Two years later the lands were extended upon a recognizance of 1,600*l.* entered into by Bromhall 13 years before, for security of money given to a charity, and Petitioner was forced in 1683 to pay one Edward Kynnaston, Esq., 425*l.*, upon which the Recognizance was by Order in Chancery assigned to Petitioner. Bromhall being seized of the inheritance of the office of Warden of the Fleet Prison, which was charged by the Recognizance, but mortgaged by him to one Henry Norwood, Esq., Petitioner brought his Bill in Chancery against Norwood and others to have the 425*l.* and interest paid out of the said office &c., and in 1685 obtained a decree to redeem Norwood, who had the first incumbrance, and to have all his demands out of the office, after Norwood was satisfied his mortgage money and interest, which, if now paid, is but very lately done, and, till that was paid, Petitioner could not proceed for his debt. The Act for the sale of the office, on behalf of Bromhall's son and, heir, contained a proviso saving Petitioner's claim. Petitioner, however, not being able to go abroad, by reason of his great age and the many wounds he has received in the naval wars, where he commanded as captain for many years, was lately informed that a Bill was passing the Commons for making the office liable to all escapes of prisoners and other damages by reason of the executing of the office, which, before, it could not be charged with. This would destroy Petitioner's security and be to his damage near 1,000*l.*, which will be his utter ruin. Petitioner applied to the Commons to have his demands saved in the Bill, but was too late. The Bill contains a saving Clause for the demands o. the widow Johnson and her children on the office, which are subsequent to those of Petitioner. Prays for security for his debt and interest. L. J., XVI. 96.

(*e*) 15 Feb. 1696–7. Petition of Anthony Church, Esq., Warden of the Fleet. The Bill takes away the liberty which the Petitioner now has to take security for true imprisonment, which, by reason of the narrow limits of the prison, has been hitherto found absolutely necessary, and reserved to the Warden by 23 Hen. VI. c. 10., and thereby only is Petitioner enabled to keep prisoners in execution in certain adjacent streets, made part of the prison by Rules of Court, which was so made for the more wholesome keeping of prisoners and preventing infection. By the Bill Petitioner will be obliged to keep them all within the House, which is morally impossible. The many prisoners in

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mesne process, who have been trusted by Petitioner no further than by the law he might, dreading the misery that must attend so narrow a confinement of such a vast multitude of prisoners in one house, will, it is to be feared, withdraw themselves out of Petitioner's power, to the great prejudice of the creditors and Petitioner's utter ruin. It will be impossible for any person to execute the office of Warden if the Bill pass. Prays to be heard by Counsel against it. [Read this day and rejected. L. J., XVI. 96.]

(*f*) 15 Feb. Petition of Francis Creswicke, Esq. During Petitioner's confinement in the King's Bench Prison one John Farrington, who acted as Marshal there, extorted several bonds and judgments from him, and, on his removal by one of his creditors to the Fleet Prison, where he now is, Farrington charged him in execution in 200*l.* thereon, because he would not give him security to remove himself back to the King's Bench Prison, when there was not nor is one penny due from him to Farrington for chamber-rent, fees, or anything else. Prays for relief. *Endorsed* as read this day. Ordered to be heard if he please. No Order issued. [No entry in L. J.]

(*g*) 22 Feb. Petition of Thomas Langton, Esq., John Knight, Gent., and John Bale, late High Sheriff, Under Sheriff, and Gaoler of the County of Somerset. Petitioners, having received last term two writs of *Habeas corpus*, one returnable in the King's Bench and the other in the Common Pleas the last day of the term, for bringing up Samuel Moor and Robert Webb, charged with above 5,000*l.*, Bale brought the prisoners under a strong guard from the Sheriff's Ward in Ivelchester to Westminster, to have them turned over to the King's Bench and Fleet Prisons, and placed them with a guard at the Cross Keys, in Arundel Street, Strand. Shortly after their arrival, one Thomas Gurney and one Anthony Ward, with 20 or 30 other armed persons inhabiting the Whitefriars, came riotously to the house, forced the doors and carried the prisoners away to the Whitefriars. Pray that the Bill may pass. *Endorsed* as read this day; nothing done on it. [No entry in L. J.]

(*h*) 1 March 1696–7. Petition of Richard Luxford, Gent. John Tilley, Esq., pretending to have a good title to the office of Warden of the Fleet Prison and estate from the trustees appointed by the late Act for the sale thereof, contracted with Petitioner to grant him, on payment of a fine of 1,000*l.* in two instalments within a twelvemonth, a lease for seven years, at an annual rent of 1,500*l.*, payable monthly. Petitioner found the money, and has kept it ready upon Tilley's promises to perform the contract, and Tilley, by an instrument of 2 January last, appointed him to act in his post as superior Warden for a few days, until he should put him into full possession. But Petitioner, finding that Tilley had been trifling with him and finding himself cheated moreover of a loan of 250*l.* to him, caused Tilley to be arrested; whereupon Tilley procured one John Wich to arrest Petitioner upon a bill penal of 2,000*l.* for payment of 1,000*l.* to one Bethesda Savage, pretending that Wich was entitled to sue the bill, though it was well known that Wich had a wife living to whom he was married before he married Bethesda, and that about six years since an action was commenced on the bill in Bethesda's name against Petitioner, and was dropped by reason that the bill had been obtained in her name by one Lewis Westcomb by undue practices, and was void. Tilley,

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making fair promises to Petitioner, who was not then aware that he was arrested by his contrivance, prevailed with him to sue out a *Habeas Corpus* and turn himself over upon a fob action to the Fleet Prison; but, before Petitioner was entered upon the books of the prison, he superseded the fob action, and gave bail to the action of Wich, whereupon Tilley induced his bail to surrender him, upon a suggestion that he intended to run away, and Petitioner is now in close confinement, while Tilley makes it his business to defame him. Tilley has contracted for the office with others and cheated them in like manner, and gives out that the Courts in Westminster Hall cannot reach him, and that it is but making presents to half a dozen speaking Lords, and he can have anything pass or be thrown out, all which will be testified by Anthony Church, the Warden, George Lucy, Barrister-at-law, Anthony Grindall, William Ford, Gent., John Hutchinson, Clerk, John Whitwood, Robert Maddox, Walcott Hobson, Gent., Captain Whiting, and Francis Duncombe, Gent., which matters were not so particularly proved at the Committee of the Commons as they might have been, as Tilley persuaded some of the witnesses to conceal what they knew or heard him confess. Prays for relief. *Endorsed* as read this day. L. J., XVI. 108.

(*i*) 6 March 1696–7. Copy of Order (in Latin), made 21 James I., for enlarging the King's Bench Prison. [Read this day before the Select Committee on the Bill. Com. Book. See notes above.]

(*j*) 6 March 1696–7. Copy of Similar Order (also in Latin) for enlarging the same, made 22 Charles II. *Signed* J. Keling. [Read this day before the Select Committee on the Bill. Com. Book. See notes above.]

(*k*) 6 March 1696–7. Copy of Similar Order (in English) relating to the Fleet Prison, dated 28 Oct. 2 James II. *Signed* Hen. Beddingfield, T. Street, Ed. Lutwych, John Powell. [Probably produced this day by Mr. Church before the Select Committee on the Bill. Com. Book.]

(*l*) 6 March 1696–7. Copy of Similar Order of same date. *Signed* Edw. Atkyns, Rich. Heath, Chr. Milton. [Probably produced by Mr. Church as above. Com. Book.]

(*m*) 10 March 1696–7. Clause as follows:—"Saving unto Anthony Smith, Mariner, his heirs, executors, administrators and assigns, all such right, title, estate, equity, interest and demand as he or they now have or shall or may have, challenge, or claim of, in, or unto the office of Warden of the Fleet or the Prison of the Fleet, or all or any the houses and shops belonging to the office of Warden of the Fleet, or to the Prison of the Fleet, or herein-before contained (by virtue of two decrees in Chancery, the one of them made the 22nd day of June 1683, and the other of them the 26th day of January 1686, whereby 425*l.* and the interest thereof was and is decreed to be paid to the said Anthony Smith out of the said office, houses, shops and appurtenances, after a mortgage made thereof by Thos. Bromall [Bromhall] unto Henry Norwood, Esq., was satisfied), as fully and effectually to all intents and purposes as he or they had before the making of this Act, and as if this Act had never been had or made." *Endorsed* as read this day. Com. Book.

(*n*) 12 March, 1696–7.—Petitions of the Master and four Wardens of the fraternity of the Art or Mystery of Haberdashers,

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London. Petitioners are Governors of the possessions and revenues of the Hospital at Monmouth of the foundation of William Jones, Merchant Adventurer. Their predecessors purchased certain lands at Hatcham Barnes, Surrey, for a fund to answer the payment of the Charity, part of which lands Petitioners let to one Thomas Pitcher, against whom they obtained a verdict in the Common Pleas, in Easter term last, for 388*l.* 16*s.* arrears of rent, besides costs of suit. In Trinity term following Petitioners charged Pitcher in execution for 325*l.* 4*s.* remaining due on the judgment, but the Warden of the Fleet allowed him to go at large, and suffered him to remain so, although admonished of his escape. Petitioners then brought an action against Anthony Church, Esq., nominal Warden, and in Hilary term last obtained judgment against him for the last named sum, with costs. Church, after promising to take out execution, to satisfy Petitioners, against Pitcher, from whom he declared he had good security, now pretends the security is lost, which pretence Petitioners believe is merely a trick to give the security time to dispose of their effects, and frustrate Petitioners of their demands, Church being an indigent and needy person. Pray that a clause may be added whereby Petitioners may have satisfaction for their debt. *Sealed* with the Company's seal. *Endorsed* as read this day, and referred to Committee to be heard. L. J., XVI. 121.

(*o*) 16 March.—Petition of Joseph Robinson, carver. Petitioner having recovered a judgment for 343*l.* 17*s.* against John Withers, Citizen and Scrivener of London, for carver's work done about some buildings for him, the latter, being rich, brought a Writ of Error for delay, which was affirmed, and then exhibited a long Bill in Chancery. Petitioner charged him in the King's Bench in execution, in the custody of one William Briggs, then Marshal, who immediately, on security or other gratuity, permitted him to go home. Petitioner then recovered judgment against Briggs for an escape. On Mr. George Taylor succeeding Briggs as Marshal, Petitioner took up Withers again upon the judgment; but the latter brought his *habeas corpus*, and turned himself over to the King's Bench, to the custody of Taylor, who has suffered him to go home and live as if no prisoner, to the utter ruin of Petitioner. Prays Taylor may attend and answer, and make Petitioner satisfaction. [Read this day (having been delivered to the Clerk by E. Rochester on the 10th), and the Marshal heard. Petition ordered to be further considered at the next meeting, but there is no further entry. Com. Book.]

(*p*) 16 March 1696–7.—Transfer of the Prisoners in the Fleet, as follows:—This Indenture, made the two and twentieth day of May, in the seventh year of the reign of our Sovereign Lord William, by the Grace of God of England, Scotland, France and Ireland King, Defender of the Faith, &c., Annoque Domini 1695, between Thomas Fox, present Warden of his Majesty's Fleet Prison, Esqr., of the one part, and Anthony Church, of the City of Westminster, Gent., of the other part, witnesseth that the said Thomas Fox hath on the day of the date hereof delivered, and by these presents doth deliver, unto the said Anthony Church the several bodies of all the persons named in a Schedule hereunto annexed, being prisoners in the said Prison of the Fleet in the custody and charge of the said Thomas Fox, and charged in the

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said prison with the several causes mentioned and expressed in the book or books remaining in the said prison of the names and causes of the prisoners in the said prison, which said prisoners are charged in the said prison with no other cause or causes than in the said books are contained. In witness whereof the parties first above-named to these present Indentures interchangeably set their hands and seals the day and year first above written. A Schedule of all such prisoners as were turned over by Thomas Fox, Esq., Warden of the Fleet, unto Anthony Church, Gent., at the time of his entrance into the office of Warden of the Fleet, viz., the four and twentieth day of May in the seventh year of the reign of King William over England, &c. 1695. (Here follow 99 names.) It would make a mutiny and confusion to bring all the prisoners into the House (and indeed impossible to be done). On such an occasion, therefore, the Warden takes possession of some in name of the whole, and the Court by Rule empowers the Warden to fetch in the rest as necessity requires. *Signed* Tho. Fox. *Endorsed* as read this day.

(*q*) 16 March 1696-7. List of prisoners turned over by Indenture by William Briggs, Esq., to George Taylor, Esq., the present Marshal, the 2nd May 1696. (Here follow 61 names.) *Endorsed* as read this day.

(*r*) 19 March 1696–7. Petition of Richard Luxford, Gent. Petitioner having in his Petition (Annex (*h*) above) charged Tilley with reflective words of their Lordships, and being sworn at the Bar to testify his knowledge relating to his Petition before the Committee, Mr. Stone, a friend and agent of Tilley's, and in a manner a mere stranger to Petitioner, became bound of his own accord to the Warden of the Fleet for Petitioner's true imprisonment, in hopes to prevail with him thereby to retract his Petition, and, in order thereunto, tendered him a Petition to sign, purporting to deny the charge, and, on Petitioner's refusing to withdraw his former Petition, seeks to take him into custody again, and gives out that Tilley can make a better agreement with Petitioner when he has him in prison. Petitioner has offered sufficient bail to the action, but it is not taken. Prays for relief. *Endorsed* as read this day, and he protected. L. J., XVI. 129.

(*s*) 20 March 1696-7. Petition of Elizabeth Leave, daughter of Charles Leave, deceased. Petitioner obtained execution above three years ago against one John Pollexfen on a bond of 11 Nov. 1681 for 200*l.*, being all that was left her by her father. Pollexfen removed himself out of the King's Bench into the Fleet, from whence by bribes he obtained his liberty from Tilley, the Warden, and has often upbraided Petitioner, saying that none but fools and beggars continued close prisoners, and that for 20 guineas he could obtain his liberty at any time, there not being an honest man belonging to the Fleet. Petitioner has frequently applied to Tilley to confine Pollexfen, but without effect, and she and her aged mother are reduced to a starving condition. Prays for redress. *Endorsed* as read this day. L. J., XVI. 130.

(*t*) 24 March. Amended* Clause, marked ×, to come in at Sk. 11, l. 28, as follows:—[to the plaintiff or plaintiffs in every such action or suit, to be recovered as aforesaid,] and moreover

* Omissions in square brackets, additions in italics.

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shall be by some justice of peace committed to the common gaol of such county, city, or place where such offence shall be committed, there to remain without bail or mainprize until the next Assizes, Sessions of Oyer and Terminer, or General Gaol Delivery [or General Quarter Sessions of the peace] to be held for such county, city, or place [which shall first happen]; and such offender or offenders being of such offence or offences duly convicted, every such offender [or offenders] shall suffer and undergo such [fine and] imprisonment, *and be set in the pillory*, as the Court where such conviction shall be shall think fit [and reasonable; and moreover for the first offence shall be set in the pillory and have one of his [*or their*] *or her* ears cut off, and for the second offence shall in like manner be set in the pillory and have his or her other ear cut off, and for the third offence shall be deemed and adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy; and if any rescue, &c.]. [Added to the Bill this day. Com. Book.]

(*u*) 27 March 1697. Clause as follows:—And whereas there was a charitable Act passed the last Session of Parliament for relief of poor prisoners for debt or damages, but no person could have any benefit thereby that was indebted above one hundred pounds, nor were they excepted from payment of fees and chamber rent, as by all former Acts they were; and, there being many hundred persons that have been long in prison and owe more, and may perish for their fees, who are great objects of charity, being disabled by war, fire, or other misfortunes, who are willing and desirous to serve his Majesty, as by the said Act is provided, but some gaolers or keepers of prisons refuse to swear for many of them, though really prisoners, under pretence or scruple of conscience, or because they had not money to give them; Therefore, Be it enacted by the authority aforesaid that any gaoler or keeper of prison may take either of the oaths in the said last Act appointed, and the prisoner giving the creditors such notice and observing such method or form for his or her discharge as by the last Act is required, then it shall and may be lawful for any person in prison for debt on the day of , who does not stand charged in execution with pounds to any one person, principal money, such man being under the age of years, listing himself in his Majesty's service, or in his place or stead procure one able man to be enlisted by such person or persons whom his Majesty shall appoint under his Royal Sign Manual, shall have the full benefit of the last Act, intituled An Act for Relief of poor Prisoners for Debt or Damages, and his person shall be free from all debts, fees and chamber rent contracted before his discharge, anything in the said Act or any other statute or custom to the contrary notwithstanding. *Endorsed* as read this day and rejected. [*See* Com. Book. *See also* next paper for words suggested to fill up blanks.]

(*u*)[1] 27 March 1697. Paper containing the words to fill up the blanks in preceding clause, vizt., 1st blank: 25 December 1695; 2nd blank: 200; 3rd blank: 40 or 50.

(*v*) 27 March 1697. Proviso as follows:—Be it enacted by the authority aforesaid That this Act or anything herein contained shall not extend to a close confinement of any person whose original debt does not exceed the sum of ten pounds. *Endorsed* Proviso, read 27 March 1697.

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(*w*) 27 March 1697. Clause marked (*φ*), then (A), securing Mr. Lenthall's debt to Mr. Boulter. It forms § xix of the Act. *Endorsed* Proviso for the Marshal of the King's Bench mortgagee. [Added to the Bill this day. Com. Book.]

(*x*) 27 March 1697. Saving Clause, marked (*o*), then (*B*), for securing a debt to Mr. Smith on the Fleet. It forms § xx of the Act. *Endorsed* Proviso for Anth. Smith. *Noted* Received 16 March '96. Not opposed by the Warden's Counsel. [Added to the Bill this day. Com. Book.]

(*y*) 27 March 1697. Proviso, marked (*z*), then (*C*), relating to the Warden and Mr. Clements and Mr. Norwood. It forms § xxi. of the Act. The words "or so much thereof as is justly due thereupon" were added by the Committee in two places. At the end is the following, expunged:—"Nor to the right, title and interest of the Warden of the Fleet in and to the mansion house, garden and ground where the said prison is now kept, nor in or to the shops, stalls, or standings in and adjoining to Westminster Hall which the Warden of the Fleet claims, distinct from the said office, by virtue of certain Letters Patents from his late Majesty King Charles the Second, bearing date the 19th day of September in the 19th year of his reign, to Sir Jeremy Whitchott, Bart., and his heirs, anything in this Act contained to the contrary hereof in any wise notwithstanding." The Paper is *noted* "Tilley." [Added to the Bill this day after the Saving marked (*o*). Com. Book.]

(*z*) 8 April 1697. Clause marked first (R), then (D), vacating deputations made by Mr. Lenthall without Mr. Boulter's consent. It forms the last section of the Act. [Added this day at the end of the Bill. Com. Book. This and the three preceding Clauses were agreed to by the House on Report on 13 April, and the immediately preceding Clause is so endorsed.]

(*aa*) 8 April 1697.—Petition of John De Berdt, who obtained a verdict and judgment for 1,614*l.* debt and 20*l.* costs against Anthony Church, Esqre., Warden of the Fleet, for the escape of his debtor Sir James Chapman Fuller, Bart. Mr. Church has concealed himself ever since, to avoid execution. Mr. Tilley has the freehold of the office of Warden, and demised it to Mr. Church, or else Mr. Church is Mr. Tilley's deputy, and Mr. Tilley, as Mr. Church's superior, ought to make good to Petitioner the principal and interest due on Petitioner's judgments against Fuller, which amount to over 900*l.* Prays for relief. [Read this day before the Select Committee on the Bill.]

(*ab*) 8 April 1697. Petition of Theodor Eccleston and John Vaughton to the Select Committee, on behalf of themselves and other the people called Quakers, as follows:—We do not desire to appear either for or against the Bill, being satisfied, as it relates to our civil capacities, with what the Parliament shall in wisdom judge most beneficial for the nation in general. Yet, inasmuch as, by two Acts for the more easy recovery of tithes made by this Parliament, the prosecutors by distress having a readier way for recovery of their demands, where legal, than other subjects have for their debts; therefore no damage to them if they have no benefit by this Bill, where the sum exceeds not ten pounds. For the reason of the Bill seems to be that some debtors injuriously carry their goods into privileged places, or other ways conceal them, so that upon an issue in law no effects

can be found. But this is not the case of the Quakers, for their prosecutors, where they please, do readily find their goods, so that they have no need of such imprisonment, unless by the close confinement intended in this Act they would ruin them in bodies and estates for small demands, we having many instances of our friends in divers parts of the nation under prosecution after the old methods, who will soon be liable to the severe effects of this law. Wherefore we humbly request to be heard to offer a clause, that those two Acts of Parliament, made the last Sessions, relating to tithes, may not be made ineffectual by this Act of Parliament. [Undated. The Quakers were called in this day, and heard to a Clause to be offered by them. Com. Book. *See also* ib., March 24, 27.]

(*ab*[1]) 8 April 1697. Clause referred to in preceding, as follows:—Whereas, by two Acts passed in the last Session of this present Parliament, vizt. An Act for the more easy recovery of Small Tithes, and An Act that the solemn Affirmation and Declaration of the People called Quakers shall be accepted instead of an Oath in the usual form, provision is made for the more easy recovery of tithes, small tithes, and church rates, for the value of ten pounds and under; Be it enacted by the authority aforesaid That nothing herein contained shall extend to any prosecution of the people called Quakers, where the suit is for tithes, small tithes, or church rates, and the original claim does not exceed the value of ten pounds, *otherwise than as by the said Acts is directed.** *Endorsed* 8 April. Clause with the word Quakers. Read and rejected. [*See also* Com. Book, March 24, 27, April 8.]

(*ab*[2]) 8 April 1697. Draft Clause as follows:—Whereas, by two Acts passed in the last Session of this present Parliament, vizt., An Act for the more easy recovery of Small Tithes, and An Act that the solemn Affirmation and Declaration of the People called Quakers shall be accepted instead of an Oath in the usual form, provision is made for the more easy recovery thereof, so as the sum exceed not the value of ten pounds, Be it enacted by the authority aforesaid That this Act or anything herein contained shall not extend to the confinement of any person or persons, where the suit is for tithes, church-rates, or anything recoverable by the abovesaid Acts, otherwise than as by the said Acts is directed. *Endorsed* as offered by the Quakers, and read and rejected this day. Com. Book.

(*ac*) 10 April 1697. Petition of Thomas Stone. Richard Luxford was committed to the Fleet in an action of 2,000*l.*, and, in order to enable him to prosecute his petition then pending before the House of Lords, Stone became security to the Warden of the Fleet for his due imprisonment, on Luxford's representation that he had been committed upon a sham action. Petitioner, afterwards discovering the debt to be a real debt, called upon Luxford to surrender himself or give bail to indemnify Petitioner; but, in spite of promises given by Luxford and his solicitor Bradon, the former absconded, and, under pretence that he would be ill used if re-committed to the Fleet, obtained a protecting Order from their Lordships pending his petition, and set Stone at defiance. On the 8th inst., Stone pressing Luxford and Bradon at the House to make good their promises, Luxford used very provoking language, and swore before their Lordships that

* These words in italics are added in the clerk's hand.

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Petitioner had struck him, whereupon Petitioner was committed to the custody of Black Rod. Petitioner appends the affidavit of two strangers, present at the time, that he did not strike or offer violence to Luxford, who moreover formerly swore high treason against the mother of his creditor and was disbelieved. Prays to be discharged out of custody on bail. [Read this day. Nothing done on it. MS. Min. No entry in L. J.; but *see* L. J., XVI., 144, 151.]

(*ac*[1]) Affidavit of Daniel Rape, of Bishopsgate, and Charles Jennyngs, of Stocksmarket, London, weavers. Rape saw Stone moving his forefinger about Luxford's face, as if he had been keeping time to music, and touching him gently on the nose without any intention to hurt him. Rape called Jennyngs' attention to them. Both deponents were strangers to Stone and Luxford. They could not discover violence used or blow given, but thought Stone was a Frenchman from his eagerness and overmuch gesture. *Signed* by both deponents, and *sworn* before J. Holt on 8 April. [Appended to preceding.]

(*ad.*) 13 April. Petition of William Briggs and John Greene, Gent. In 1690 the office of Marshal was granted to Petitioner Briggs and his assigns for his life. Petitioner Greene is bound to pay Mr. Lenthall 1,400*l.* a year rent for the office during the life of Briggs. The prison having been burnt down by a fire in Southwark, Lenthall obliged himself to repair it, and directed Briggs to do so, promising to allow the cost out of the said rent. The cost was 1,350*l.*, and Lenthall owes Petitioners 1,000*l.* besides, and has to pay them out of the rents. Pray to be heard against the clause in the Bill making void the grant of the office to Briggs. *Signed* John Greene, for self and Wm. Briggs. [Read this day and rejected. MS. Min. No entry in L. J.]

(*ae.*) 13 April 1697. Petition of John Tilley, Esqre., to the Committee to whom Richard Luxford's Petition is committed. Petitioner has been unjustly accused before the Committee of irreverent and disrespectful words by persons who have combined to ruin him, to serve the end of one Mr. Baldwyn Leighton, who pretends title to the office of Warden of the Fleet, in which Petitioner is interested, as appears by annexed affidavit. Petitioner has several other witnesses who have been concerned with Mr. Leighton and others, who can make appear their undue practices in relation to Petitioner. Prays for a day to hear his witnesses. [Read this day before the Select Committee on Prisons. Com. Book.]

(*ae.*)[1] Affidavit of John Curtis, of St. Margaret's, Westminster, that one Mr. John Gilbert came to him from Mrs. Hancock to desire him to come to her lodgings in Whitefriars, to meet Col. Leighton and his solicitor, Mr. Brunskill. There they proposed to give him a grant of the office of Warden of the Fleet under Leighton, on his advancing 1,000*l.*, and he and Leighton were then to divide the profits. Mrs. Hancock, Leighton, deponent and Brunskill met the next day at Mr. Story's, nigh to St. James' Park, to perfect the articles prepared by Brunskill; but, it being proposed to deponent that he should advance 50*l.* to prosecute Mr. Tilley, who is interested in the Fleet Prison, deponent became suspicious, and refused to seal the articles. To induce him to comply, Mrs. Hancock declared she would do Mr. Tilley's business, for she and Mr. Gilbert, whom she called her "lovey," would swear against him in Parliament, and would get one or

two more to do the same, and ruin him. She added that Col. Leighton was to allow her 100*l.* a year, or such like sum, in case he recovered the Fleet from Mr. Tilley. Gilbert and Mrs. Hancock, pursuant to this design, are witnesses against Mr. Tilley. *Sworn* before Miles Cooke on 29 March. [Appended to preceding.]

(*af.*) 13 April 1697. Petition of John Wich, Esqre. Petitioner caused Richard Luxford to be arrested for a penal Bill of 2,000*l.* for payment of 1,000*l.* to Petitioner's wife, Luxford's Bill in Chancery to be relieved having been dismissed. His bail having surrendered him to the Fleet Prison, he presented a Petition to the House of Lords suggesting the bond was void in law and equity, in spite of the Lord Keeper's dismission of his Bill, and thus obtained their Lordships' Order to protect him. Prays Luxford may attend the House from time to time in custody, until he shall give bail to answer, so that he may not, under colour of prosecuting his Petition, find means to escape. [Read this day. L. J., XVI. 151. On the following day an Order was made for Luxford to attend the Committee in custody. *Ib.* 159.]

(*ag*) 13 April. Petition of George Taylor, Marshal of the Court of King's Bench. Petitioner in Easter term last was admitted to the office of Marshal, by virtue of a grant to him by William Briggs, Esq., late Marshal, for which Petitioner paid 2,000*l.* Briggs held the office under a grant from William Lenthall, Esq., about seven years since. A Clause has been added in Committee to the Bill, making void all grants by Lenthall, whereby Petitioner will lose his office. By another Clause Petitioner and the keepers of all other prisons are obliged to put in special bail upon all Writs of Error brought upon judgments recovered against them for escapes for the whole sum recovered, although it be upon a penalty where little or nothing is due, which will be a great hardship upon the keepers of prisons, and the giving bail for the money really due (only) will be sufficient security to the Plaintiffs in the actions. Prays to be heard by counsel against the two Clauses, before the Bill be read a third time. *Endorsed* as read this day and rejected. MS. Min. No entry in L. J.

(*ah*) 14 April 1697. Petition of Richard Luxford, gentleman. Mr. Wescomb, who married Lady Copleston, and whose character is not unknown to the world as a sharper and gamester about town, met Petitioner at a cock match just as he arrived at Bristol, invited him to his house, got him into gaming, and got from him a Bill of 327*l.*, besides 103*l.* paid in money. On their keeping their coach, four or five liveries, music playing constantly at meals, Petitioner thought they had a fortune answerable, and courted their daughter, with whom was proposed a very great fortune. When he came home to his friends, they gave him an account of the cheat of those people, and how they had like to have tricked a gentleman a summer or two before. This made Petitioner desist having any more concern with them, and he afterwards married the woman he now has; but, Petitioner not being of age, they then got him into no bond. The day after his marriage, Wescomb came to Petitioner here in town. Petitioner told him of his marriage, and he wrote to his daughter about it, and dined with Petitioner and his wife the day after, and received a pair of gloves. He then ensnared Petitioner into

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the country with him, to make good his promise of letting him have a share in some lead mines, telling Petitioner he must say nothing of his marriage, otherwise Wescomb's wife and daughter would obstruct his having any share. Petitioner being newly come of age, Wescomb intrigued him out of a bond to his daughter for 1,000*l.* out of natural love and affection, which bond they now sue, and Wescomb has taken Petitioner up at the suit of John Wich, who has a wife now living that was married to him before this. At this action an agent of Mr. Tilley's would not let Petitioner trouble his friends for bail; he would get bail himself for the suit, which accordingly was done. Afterwards Mr. Tilley, having put Petitioner to a very great expense in holding him nine months in treaty for the Fleet, and got part of his money, let Petitioner have neither the Fleet nor his money again; so Petitioner arrested him. But, Petitioner's bail being strangers, Tilley got them to deliver Petitioner up to the Fleet Prison, and sent him word that, if he would give him the debt, he would give him his liberty. After Petitioner had presented his Petition before the House, one Stone, who is a prisoner in the Fleet, came to him without his request, for he was a stranger to him, and became security to the Warden of the Fleet for his true imprisonment. Next day Stone came to have Petitioner sign a Petition to withdraw a former Petition to their Lordships against Mr. Tilley; and, because Petitioner refused, he ever since seeks to deliver him again to the Fleet. But Petitioner obtained their Lordships' protection, which they now seek to get off, and to bring Petitioner into the Fleet to lie at their mercy. So that, between Tilley, Wich, and Wescomb, Petitioner is to become a prisoner, to lose his money and office, and his wife and children made miserable, being already dismissed out of Chancery, by reason of some letters Petitioner produced some time after marriage, which was procured to be done by Wescomb and sent always enclosed in his to his wife, in order to hold correspondence till such times the lead mines were settled. Prays their Lordships not to leave him to the hands of those merciless men. *Endorsed* as read this day and rejected. MS. Min. No entry in L. J.

1115. 10 Feb.—Trade and Plantations.—Papers produced before a Committee appointed to consider of the State of the Trade of this Kingdom.

The Committee was appointed, on motion, this day. (MS. Min.; L. J., XVI. 94.)

Their proceedings are recorded as follows:—

11 Feb.—E. Rochester in the Chair.—The Report made 20 Jan. 1695, touching trade, was read. *Ordered*, That the Clerk send a copy thereof to the Commissioners for Customs, and that some of them attend on the 15th inst. with an information of what has been done by them in pursuance of the Report (Paper *c*), and particularly in what bottoms they observe the importations and exportations have been managed, and whether they have anything more to offer, in supplement to the late Act concerning the Plantation trade. *Ordered*, That the Commissioners of Trade be desired to send on the 15th inst. a copy of their Commission (Paper a^1), with an account of what has been transacted before them in pursuance thereof; and, if they have observed their Commission does not contain sufficient power for the securing or improving the trade of this nation, to lay it before their Lordships with their opinion how it may best be supplied, and likewise to acquaint their Lordships with anything

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that may have occurred to their observation for the better management of the said trade (Paper *a*).

15 Feb.—E. Rochester in the Chair.—The *Secretary of the Commission of Trade* delivers in a copy of the said Commission (Paper a^1), as also an Account of what has been under their consideration since the opening the Commission (Paper *a*), which Account is read. The *Commissioners of the Customs* are called in. *Mr. Clarke* says Sir Robert Southwell is not well, otherwise he would have attended. He delivers in an Account of exportations and importations for the three last years, contained in books they have brought with them (Paper c^1). He also delivers in an Account of the English and foreign ships cleared from and arrived at London and the out-ports from Michaelmas, 1692 (Paper c^2). The Papers from the Commissioners of Customs are returned to be signed by them. *Mr. Randolph*, called in, delivers in a Paper of Proposals offered by him formerly to the Commissioners of Customs, which is read (Paper *b*). Proposal 1 being read, *Mr. Clarke* says they made a Presentment of the matter in that Proposal to the Commissioners of the Treasury. The Presentment is what the Commissioners of the Customs thought fit to make upon Mr. Randolph's whole Proposals. *Ordered*, That the Commissioners of the Customs lay before the Committee tomorrow a copy of their Presentment (Annex *d*); and that for the future they keep an account of what ships the several goods entered in the Custom House in London or in the outports are exported or imported in, and that they make the best estimates they can of the values of the goods so exported or imported. *Mr. Randolph* is directed to lay before the Committee a copy of the lease made by the late King James, when Duke of York, to Mr. Penn, of that part of Maryland that lies on the sea-coast, whereby the trade of the Plantations is so much abused.

16 Feb.—E. Rochester in the Chair.—*Mr. Randolph* says he can find no copy of Mr. Penn's lease, but he has a Report of the Attorney-General and the Solicitor-General's Report upon the Grants to Mr. Penn, which is read (Paper *e*). *Ordered*, That Mr. Penn attend on the 20th inst. with two Indentures from the late King James, when Duke of York, dated 24 Aug. 1682, touching the Country of Newcastle and the tracts of land depending thereon in America *Ordered* that Mr. Blathwayt produce on the 20th inst. a copy of Col. Fletcher's Commission when he went as Governor to New York. The Account delivered in yesterday by the Commissioners of Trade was read. *Ordered*, That the Commissioners of Trade produce copies of their Representation to the King concerning the settling of Courts of Admiralty in the Plantations under proper officers of his Majesty's appointment (Paper *h*), and also acquaint their Lordships whether anything has been laid before his Majesty by them in relation to the Governors to be approved of by his Majesty, in pursuance of the late Act for preventing frauds &c. in the Plantation trade. *Mr. Clarke* delivers in a copy of the Presentment to the Lords of the Treasury &c. (Paper *d*), as also an Account of the English and foreign ships cleared &c. (Papers c^1 and c^2), and an Account of what they have done in pursuance of the Report of 20 Jan. 1695 (Paper *c*). *Ordered*, That Mr Randolph bring on the 20th a list of all the Proprietors of Plantations that are independent of the Government of his Majesty (Paper *o*). *The Commissioners of Customs* are directed to consider whether it be necessary to send Mr. Randolph presently with the other officers to the Plantations.

20 Feb.—E. Rochester in the Chair.—*The Secretary of the Commission of Trade* delivers in the Representations ordered on the 16th (Papers *f* to *k*), as also Col. Fletcher's Commission as Governor of New

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York (Papers *l* and *m*). *E. Bridgewater* lays before the Committee the Petition of the Proprietors of several Plantations to his Majesty upon the Representation of the 17th Dec. 1696, about erecting of Admiralty Courts there (Paper *n*). *Mr. Daniel Blake* says that, being this morning with Mr. Penn, he found him ill of a fever, and he desired him to pray their Lordships to excuse his attendance till he is better, which he hopes will be suddenly. Mr. Blake is directed to let him know that he attend on the 23rd, which he accordingly undertakes. *Ordered*, That Mr. Randolph attend the Committee as often as they shall think fit. *Mr. Randolph* is called in, and delivers in a list of the Proprietors of the Plantations that are independent, which is read (Paper *o*). *Ordered* That the Proprietors of Carolina and the Bahama Islands, viz. E. Craven, E. Bath, L. Berkeley of Stratton, L. Ashley, L. Carteret, Sir John Colleton and John Archdale, Junr., attend on the 22nd inst.

22 Feb.—E. Rochester in the Chair.—*E. Bath* acquaints the Committee that he is come in obedience to their Order, but he has not had opportunity to speak with the other Proprietors, and he knows not their Lordships' commands. The list of Proprietors was read, and the following Paper, with the Abstract mentioned in it, was sent to the Proprietors of the Bahama Islands and of Carolina, viz., "The Lords Committees appointed to consider of the State of the Trade of this Kingdom send this Abstract of a Representation made to his Majesty from the Commission of Trade, which they think reasonable to be complied with, and desire you will agree to settle a certain allowance upon the Governor, and that he may be obliged to give such security as is proposed in this copy of their Representation; and that you will consider in like manner of a Governor of Carolina, on whom it is desired you will also settle a certain salary, and oblige him to give security, as the several Acts relating to trade and navigation and the Plantations require, for his obedience to those Acts. They desire you will meet and give your answer with what convenient speed may be."

23 Feb.—E. Rochester in the Chair.—*Mr. Penn*, called in, says he has brought the deeds which he had from King James, when Duke of York, relating to Newcastle in America. (They are read.) Says that by virtue of those deeds he has a power of making a Governor there. The Duke had so before, and he has so now, he conceives. He has the Grant the Duke of York had from the Crown. The late Act for the Plantations has been put in execution. His Governor is ready to do what the Act obliges. He himself submits to it. (That part of Mr. Randolph's Paper (Paper *o*) which relates to Pennsylvania and Newcastle, &c. is read). Desires he may have time to answer, and leave to bring a charge against Mr. Randolph of his ill-usage of the Governors there, &c. (*Ordered*, That Mr. Penn may have a copy of that part of Mr. Randolph's Paper which has been read). He has laid Capt. Markham's name before the Commission of Trade for the King's approbation. An Order of Council of 9 Aug. 1694 to Col. Nicholson, relating to the prevention of smuggling, is read. *Mr. Penn* undertakes to bring a copy of the Act made by Col. Nicholson, which he complains of. He will lay before the Committee what he thinks for advantage of trade, and he will give an answer in writing on 1 March to Mr. Randolph's Paper. *Ordered*, That Mr. Randolph's witnesses, viz., Mr. Richard Savage, Mr. Stephen Board, Mr Peregrine Brown, Mr. Wm. Nichol, Mr. John Taylor, Mr. Ebenezer Chaffin, and Mr. John [Graves], attend on 1 March, and appear in the meantime at the Bar to be sworn.

1 March.—E. Rochester in the Chair.—The Report from the Commissioners of the Customs, touching Mr. Randolph's going to the

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Plantations (Paper *p*), is read. *Mr. Pople*, Secretary to the Commissioners for Trade, delivers in a copy of the Report of the Commissioners of the Customs to the Commissioners of Trade on 17 January (Paper *q*). *Mr. Penn*, called in, delivers in answers in writing to Mr. Randolph's charge (Papers *r* and *s*). *Mr. Randolph* is called in. Mr. Penn's two answers are read. *Mr. Penn:* It is impracticable to cheat the King of tobacco this way. The charge and answer are read again. *Stephen Board*, sworn, says the list of the ships now showed him (except Matthew Eustis) is true (Paper *u*). It is a list of ships loaded in Pennsylvania with tobacco, and it appears not they have delivered their loading here. *Mr. Randolph*, sworn, says he often asked Mr. Markham (Mr. Penn's Governor) why the bonds he had taken of several ships he named to him for their returning for England were not put in suit, they having not accordingly come hither, and Mr. Markham only said it was not done. The bonds, he says, are in Mr. Markham's hands, but he has left a list of them with Mr. Webb. *Mr. Penn:* Bonds have been taken; it is not our fault that they have not been prosecuted. *Richard Savage*, sworn, delivers in a certificate touching a Dutchman's carrying a quantity of goods the land way (Paper *w*). *Peregrine Brown*, sworn, says one Arnaldus Delegrange, a Dutchman, carried 2,000*l.* or 3,000*l.* in goods the land way, and purchased about 1,000 hogsheads. He knows that one hogshead of tobacco has been carried that way. *Mr. Savage* delivers in a list of several instances of an illegal trade and undue practices at Pennsylvania, abstracted out of letters to the Commissioners of the Customs (Paper *x*). They withdraw. *Mr. Penn*, recalled, delivers in a copy of the Act made by Mr. Nicholson (Paper *y*). He will offer something for the advantage of trade on the 4th inst., at which time he is directed to attend.

4 March.—E. Rochester in the Chair.—*Mr. Penn*, being called in and asked what more he has to say in answer to the Paper formerly delivered in by Mr. Randolph, delivers in an Act made by Governor Nicholson in Maryland (Paper *z*). *Mr. Randolph* is called in. *Mr. Penn:* The ship that brought unlawful goods to Pennsylvania belonged to Delagrange. She came only into the river and not into the ports, and what ill she did was in one night, which cannot be much. We had no ship strong enough to oppose him. All the care that is possible, at the distance we are at from Pennsylvania, is taken. (Delivers in the Paper he promised at the last meeting, for the advantage of trade (Paper *a a*), which is read). Mr. Randolph's Governor takes insufficient securities. I have sued one or two, and they are worth nothing. *Ordered*, That one or more of the Commissioners of the Customs attend on the 8th inst., with an account in writing of what instructions they have given or are preparing to give the officers they are about to send to the Plantations in America, and also an account of what instructions have been given to his Majesty's Governors in the said Plantations in relation to trade. *Mr. Penn* is asked what objections he can make to the putting the government of the Proprietors' Plantations into the King's hands. The country is nothing worth to him the moment after he shall lose his government. The loss of it will ruin him and his family. This is his right and the support of his family. Without this government he cannot sell an acre of land. He proposes that his Deputy Governor shall be approved by the King and give security. He is directed to attend on the 8th inst.

8 March.—E. Rochester in the Chair.—*Sir Robert Southwell*, &c., in pursuance of the Order of the 4th inst., produces copies of the instructions given to the Governors in the Plantations and to their officers to

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be sent thither, both of which are read (Paper *bb*). *The Commissioners* present undertake to move the Commissioners of the Treasury that the King be humbly desired to sign the instructions to the Governors as the late Kings have done. (Mr. Penn's Proposal for advancement of trade the last day is read.) The Commissioners say the Governors of the Proprietors' Islands take no notice of any instructions sent them. They withdraw. *Mr. Randolph* delivers in a Paper, but it is not read (Paper *cc*).

11 March.—E. Rochester in the Chair.—*Mr. Randolph's* Paper, delivered in the last day, is read. *Mr. Penn* is called in, and a Paper entitled An Expedient against Fraud in the Plantation trade, delivered in by him, is read (Paper *dd*). *Ordered* that it be sent to the Commissioners of the Customs, to be considered of by them, and returned on the 15th inst. with their observations thereon. *Ordered*, That Mr. Penn may have a copy of the list of the vessels trading to Pennsylvania, &c. delivered in by Mr. Savage. *Ordered*, That the Commissioners of the Customs bring on the 15th inst. the instructions to the Governors of the King's Plantations, undertaken to be prepared by them for the Lords Commissioners of the Treasury, to be laid by them before his Majesty for his Royal signature; and that they lay the same before this Committee before they are presented to the Lords of the Treasury. *Memorandum:* The Lord in the Chair acquainted Mr. Penn to the effect following: that the Committee are of opinion that the Governors for the Proprietors should receive the same instructions from the King as his Majesty's Governors shall have, and that the Proprietors shall be under obligation that those instructions be observed by their Deputies, and be liable to answer for their misbehaviour; that, if there be further complaint against the Proprietors after this, the Parliament may possibly take another course in this matter, which will be less pleasing to them.

15 March.—E. Rochester in the Chair. *Sir Robert Southwell* delivers in the observations of the Commissioners of the Customs on Mr. Penn's Paper sent to them by this Committee the last day, which are read (Paper *ee*). He delivers in a copy of the instructions prepared for the King's signature to the Governors of his Plantations, which is read. The Commissioners withdraw. *Mr. Penn*, desiring to be heard, is called in. He offers a Paper of Proposals for the encouragement of trade in the Plantations. *The Commissioners of the Customs* are called in, and, the Paper being read to them, they desire to consult together, that they may propose what may be proper. The Paper is given back to Mr. Penn, he undertaking to give the Commissioners of the Customs a more correct copy. *The Commissioners* are directed, when they have received and considered it, to make a representation thereof to the Committee. (Paper *ff*[2]). They are directed to forbear delivery to the Lords Commissioners of the Treasury of the said instructions till they hear again from the Committee. They withdraw. Ordered to report as in L. J., XVI. 125–6.

18 March.—E. Rochester in the Chair. An Address, in pursuance of the Order of the House yesterday (L. J., XVI. 126), is drawn, and agreed to be reported. This Address is given in L. J., XVI. 127–8, *in extenso*. The King's answer on the 22nd is given in L. J., XVI. 131.
23 March.—M. Normanby in the Chair. Adjourned to the 27th inst.
27 March.—E. Rochester in the Chair. Adjourned to 1 April. Com. Book.—Nothing further recorded.]

The Papers are as follows:—

(*a*) 15 Feb.—Account from the Commissioners for Trade of some of the things done by them in pursuance of their Commission, as follows:—

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To the Right Honourable the Lords Committees of the most Honourable the House of Lords, appointed to consider the state of the Trade of this Kingdom.

May it please your Lordships.

In obedience to your Lordships' Order, dated the 11th of this month, we humbly lay before your Lordships a copy of our Commission for promoting the trade of this Kingdom, and for inspecting and improving his Majesty's Plantations in America and elsewhere, in pursuance whereof we have enquired, so far as we have been able, by correspondence abroad and conference with merchants here, and all other ways, into matters relating to domestic and foreign trade, amongst which the woollen, linen and paper manufacturers, the Lustring Company, the exportation of wool, the clandestine importation of prohibited goods from France, the supply of naval stores from his Majesty's Plantations, besides several other things of public concernment in trade, have fallen under our consideration. We have made divers representations to his Majesty, as occasions have required, and particularly for the setting out of convoys to several parts, as hath appeared to us requisite for the advantage of those trades; upon which his Majesty hath been graciously pleased to give orders. We have held a correspondence with his Majesty's Governors in all his Plantations, signifying his Majesty's pleasure to them in all matters that have occurred to us for public service; amongst which some particulars have regarded the suppression of pirates, some the conduct of the Plantations respectively towards one another, some the government of the several Plantations distinctly within themselves. A good part of our time hath been taken up in perusing and considering the transcripts of the public proceedings of those Plantations which have been transmitted to us, and more particularly the Acts of their general assemblies or laws, in order to represent to his Majesty which of those laws may be fit to be continued, and which repealed, as well with respect to the orderly government of those Plantations as to the benefit of this Kingdom. The better to enforce the late Act of Parliament for preventing of Frauds and regulating Abuses in the Plantation Trade, and in order to prevent a trade from Scotland and other illegal trades into those parts, we have proposed to his Majesty the settling of Courts of Admiralty there, under proper officers of his Majesty's appointment. Upon the preparations of the French (as we apprehended) against the West Indies, we laid before his Majesty an opinion for securing his Plantations and offending the enemy there; wherein his Majesty hath been pleased to give directions. Upon the misfortune that happened in Newfoundland, we also considered that matter, and laid before his Majesty what we humbly conceived to be for his service; upon which his Majesty hath been pleased to signify to us that he will take care therein. These are some instances, among many others, that might be given of the things that we have been transacting since the opening of our Commission.

We humbly conceive that our said Commission doth contain such powers as enable us to hear, examine into, and report to his Majesty our opinion upon all matters proper to be considered for the securing and improving the trade of this nation.

The matters that occur to observation for the management of trade are manifold, according to the circumstances of each particular trade whereof the whole is composed, and cannot

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easily be enumerated. But there doth not occur anything to us of more general advantage to the trade of England than that our hands at home be fully employed, whereby we may be the better enabled to send large quantities of manufactures abroad; and that the consumption of such foreign goods as are not purchased in return of our own manufactures be diminished.

Whitehall, Feb. 15 1696–7.] J. Bridgewater.
Tankerville.
Ph. Meadows.
Wm. Blathwayt.
John Pollexfen.
[Read this day. Com. Book.] John Locke.

(a^1) 15 Feb.—Copy of the Commission for Trade, enclosed with preceding, viz.:—

William the Third, by the Grace of God King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To our Keeper of the Great Seal of England or Chancellor of England for the time being, our President of our Privy Council for the time being, our Keeper of our Privy Seal for the time being, our First Commissioner of our Treasury and our Treasurer of England for the time being, our First Commissioner of our Admiralty and our Admiral of England for the time being, and our principal Secretaries of State for the time being, and the Chancellor of our Exchequer for the time being: To our right trusty and right well-beloved cousins and counsellors, John, Earl of Bridgewater, and Ford, Earl of Tankerville: To our trusty and well-beloved Sir Philip Meadows, Knight, William Blathwayte, John Pollexfen, John Locke, Abraham Hill and John Methwen, Esquires, Greeting.

Whereas we are extremely desirous that the trade of our Kingdom of England, upon which the strength and riches thereof do in a great measure depend, should by all proper means be promoted and advanced. And whereas we are persuaded that nothing more will effectually contribute thereto than the appointing of knowing and fit persons to inspect and examine into the general trade of our said Kingdom and the several parts thereof, and to enquire into the several matters and things hereinafter mentioned relating thereunto, with such powers and directions as are hereinafter specified and contained.

Know ye therefore that we, reposing especial trust and confidence in your discretions, abilities and integrities, have nominated, authorised and constituted, and do by these presents nominate, authorise and appoint the said Keeper of our Great Seal or Chancellor for the time being, the President of our Privy Council for the time being, the Keeper of our Privy Seal for the time being, the First Commissioner of our Treasury or Treasurer for the time being, the First Commissioner for executing the office of Admiral and our Admiral for the time being, our principal Secretaries of State for the time being, and our Chancellor of the Exchequer for the time being, and You, John, Earl of Bridgewater, Ford, Earl of Tankerville, Sir Philip Meadows, William Blathwayte, John Pollexfen, John Locke, Abraham Hill and John Methwen, or any three or more of you, to be our Commissioners, during our Royal pleasure, for promoting the trade of this our Kingdom and for inspecting and improving our Plantations in America and elsewhere.

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And, to the end that our Royal purpose and intention herein may the better take effect, our will and pleasure is, and we do hereby order, direct and appoint, that you do diligently and constantly, as the nature of the service may require, meet together at some convenient place in our palace of Whitehall which we shall assign for that purpose, or at any other place which we shall appoint for the execution of this our Commission.

And we do by these presents authorise and empower you our said Commissioners, or any three or more of you, to enquire, examine into, and take an account of the state and condition of the general trade of England, and also of the several particular trades in all foreign parts, and how the same respectively are advanced or decayed and the causes or occasions thereof, and to enquire into and examine what trades are or may prove hurtful, or are or may be made beneficial, to our Kingdom of England, and by what ways and means the profitable and advantageous trades may be more improved and extended, and such as are hurtful and prejudicial rectified or discouraged, and to inquire into the several obstructions of trade and the means of removing the same; and also in what manner and in what proper methods the trade of our said Kingdom may be most effectually protected and secured in all the parts thereof, and to consider by what means the several useful and profitable manufactures already settled in our said Kingdom may be further improved, and how and in what manner new and profitable manufactures may be introduced.

And we do further by these presents authorise and require you our said Commissioners, or any three or more of you, to consider of some proper methods for setting on work and employing the poor of our said Kingdom and making them useful to the public, and thereby easing our subjects of that burden, and by what ways and means such design may be made most effectual, and in general, by all such methods and ways as you in your discretions shall think best, to inform yourselves of all things relating to trade and the promoting and encouraging thereof, as also to consider of the best and most effectual means to regain, encourage and establish the Fishery of this Kingdom.

And our further will and pleasure is that you our said Commissioners, or any five or more of you, do from time to time make representations touching the premises to us or to our Privy Council, as the nature of the business shall require, which said representations are to be in writing, and to be signed by five or more of you.

And we do hereby further empower and require you our said Commissioners to take into your care all records, grants and papers remaining in the Plantation Office or thereto belonging, and likewise to inform yourselves of the present condition of our respective Plantations, as well with regard to the administration of the government and justice in those places as in relation to the commerce thereof. And also to enquire into the limits, soil, and product of our several Plantations, and how the same may be improved, and of the best means for easing and securing our Colonies there, and how the same may be rendered most useful and beneficial to our said Kingdom of England.

And we do hereby further empower and require you our said Commissioners, more particularly and in a principal manner, to inform yourselves what naval stores may be furnished from our Plantations, and in what quantities, and by what methods our

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Royal purpose of having our Kingdom supplied with naval stores from thence may be made practicable and promoted. And also to enquire into and inform yourselves of the best and most proper methods of settling and improving in our Plantations such other staples and manufactures as our subjects of England are now obliged to fetch and supply themselves withal from other princes and States. And also what staples and manufactures may be best encouraged there, and what trades are taken up and exercised there which are or may prove prejudicial to England, by furnishing themselves or other our Colonies with what hath been usually supplied from England, and to find out proper means of diverting them from such trades, and whatsoever else may turn to the hurt of our Kingdom of England.

And to examine and look into the usual instructions given to the Governors of our Plantations, and to see if anything may be added, omitted, or changed therein to advantage. To take an account yearly, by way of journal, of the administration of our Governors there, and to draw out what is proper to be observed and represented unto us. And, as often as occasion shall require, to consider of proper persons to be Governors, or Deputy Governors, or to be of our Council, or of our Council at law, or Secretaries, in our respective Plantations, in order to present their names to us in Council.

And we do hereby further authorise and empower you our said Commissioners to examine into and weigh such acts of the Assemblies of the Plantations respectively as shall from time to time be sent or transmitted hither for our approbation. And to set down and represent as aforesaid the usefulness or mischief thereof to our Crown, or to our said Kingdom of England, or to the Plantations themselves, in case the same should be established for laws there. And also to consider what matters may be recommended as fit to be passed in the assemblies there. To hear complaints of oppressions and mal-administrations in our Plantations, in order to represent, as aforesaid, what you in your discretions shall think proper. And also to require an account of all monies given for public uses by the assemblies in our Plantations, and how the same are and have been expended or laid out.

And we do, by these presents, authorise and empower you our said Commissioners, or any three of you, to send for persons and papers for your better information in the premises, and, as occasion shall require, to examine witnesses upon oath, which oath you are hereby empowered to administer, in order to the matters aforesaid.

And we do declare our further will and pleasure to be that you our said Commissioners do from time to time report all your doings in relation to the premises in writing under the hands of any five of you, as aforesaid, to us, or to our Privy Council, as the nature of the thing shall require.

And we do hereby further authorise and empower you our said Commissioners to execute and perform all other things necessary or proper for answering our Royal intentions in the premises.

And we do further give power to you our said Commissioners, or any three or more of you as aforesaid, from time to time and as occasion shall require, to send for and desire the advice and assistance of our Attorney or Solicitor General, or other our Counsel at law.

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And we do hereby further declare our Royal will and pleasure to be that we do not hereby intend that our Chancellor of England or Keeper of our great Seal for the time being, the President of our Privy Council for the time being, the Keeper of our Privy Seal for the time being, the Treasurer or First Commissioner of our Treasury for the time being, our Admiral or First Commissioner for executing the Office of Admiral for the time being, our principal Secretaries of State for the time being, or our Chancellor of the Exchequer for the time being, should be obliged to give constant attendance at the meeting of our said Commissioners; but only so often and when the presence of them, or any of them, shall be necessary and requisite, and as their other public service will permit.

In witness whereof we have caused these our Letters to be made patents.

Witness Thomas, Archbishop of Canterbury, and the rest of the Guardians and Justices of the Realm. At Westminster, the Fifteenth day of May, in the eighth year of our reign.

By Writ of Privy Seal.

CHUTE.

(*b*) 15 Feb.—Mr. Randolph's Proposals to the Commissioners of Customs for regulating abuses in the Plantation trade, viz.:—

To the Honble. the Commissioners of his Majesty's Customs.

Proposals humbly offered for the more effectual putting in execution the Act for preventing Frauds and regulating Abuses in the Plantation Trade.

1. That the Governors in all the propricties be duly qualified for the discharge of their trusts, in relation to the Acts of Trade, as in the Act for preventing Frauds, &c., is directed.
2. That fit persons be appointed to be Governors of Carolina and Pennsylvania, to prevent the illegal trade carried on by Scotchmen and others, in vessels belonging to New England and Pennsylvania, from those provinces to Scotland, Carasaw [Curaçoa], and other unlawful places.
3. That a Commission under the Great Seal of England (as formerly) be directed to divers persons, with power to administer the oath to the present Governors in all the Plantations, and also to such who shall hereafter be made Governors of any of those Plantations, before their entering upon their respective Governments.
4. [*Noted* in margin: Before the King in Council.]—That there be appointed a Judge, a Register, a Marshal of the Court of Admiralty, and an Attorney-General, in all the Colonies and provinces upon the coast of America, to try causes arising upon seizures and forfeitures made upon the breach of the several Acts relating to the trade in the Plantations, as in the aforesaid Act for preventing Frauds &c. is directed.
5. [*Noted* in margin: Done.]—That all such officers, Collectors and others, who have, by ignorance or connivance, encouraged the illegal trade, be removed, and that honest and able officers be put in their rooms, also in such places where officers are yet wanting, for putting the said Act in execution. *Signed* Ed. RANDOLPH, S.G. [Read this day. Com. Book.]

(*c*) 16 Feb.—Return of the Commissioners of the Customs to an Order of the Committee of 11 Feb., as follows:—

To the Right Honble. the Lords Committees appointed to consider of the State of the Trade of this Kingdom.

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May it please your Lordships.

In obedience to your Lordships' commands, by your Order of the 11th inst., upon a copy of a Report made upon the 20th of January 1695 from the Lords Committees appointed to consider of certain Papers delivered from this Board, requiring that some of us do attend your Lordships with an information of what has been done by us in pursuance of the said Report, we do humbly acquaint your Lordships, that, pursuant to several Orders of the House of Peers and of the Lords Committees of 30th December 1695 and 8th January 1695-6, we have caused to be collected an account of the exportations and importations of trade for the three then last years, distinguishing to or from what country or place the same were exported or imported, according to such specimens as we exhibited to their Lordships of the said Committee at our attendance on their Lordships, which account is contained in twelve books, which were yesterday laid before your Lordships, a schedule whereof is herewith presented. But, lest the said account may not fully answer your Lordships' purpose, so as to frame a balance of trade from thence, without distinguishing the shipping in which the said exportations and importations were made, whether English or foreign, and also without the knowledge of the value of the goods exported and imported, we have directed the account which is to be kept for the future of such exportations and importations to be kept in such a method as to distinguish the quality of the shipping, and also to give as certain an estimate of the value of the goods as can be known by the laws and methods of the Customs. And, in relation to the account already laid before your Lordships, although we cannot distinguish to your Lordships the shipping in which the goods contained in the said account were imported or exported, we have caused to be extracted out of the General Register of Shipping, which is kept by a clerk appointed by us for that purpose, an account of the number of English and foreign ships imported and exported in London and the out-ports for four years last past, in which the three years of the said account are included. And, in further obedience to your Lordships' said Order requiring us to inform your Lordships whether we have anything to offer in supplement to the late Act concerning the Plantation trade, we do humbly acquaint your Lordships that some of our number that are of the House of Commons have under their care to bring in a clause in some proper Bill to lengthen the time given by the said Act for administering the oaths to the Governors of the Plantations, which, by reason of some accidents that have intervened, is almost elapsed before the same could be put into execution, and chiefly by the obstructions that have been given, by the Proprietors of those Plantations that were under particular charters, to those things that have been endeavoured by the Commissioners, in pursuance of the said Act.

All which is humbly submitted to your Lordships' consideration.

Walter Yonge.
Ja. Chadwicke.
Sam. Clarke.
Ben. Overton.

Custom House, London,
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(c^1) 16 Feb.—Engrosed Schedule of the Book containing an Account of three years' exportations and importations, as follows:—

Custom House, London, 15 February, 1696.

An Account of the trade of this Kingdom with all parts of the world by way of exportation and importation for 3 years, vizt., from Christmas 1692 until Christmas 1695, being in return to an Order of the House of Lords dated 30 December 1695, which is contained in 12 books, as follows, vizt.:—

Liber 1. Contains the exportations from the Port of London from Christmas 1692 to Christmas 1693.

„ 2. Contains the importations into the Port of London for the same time.

„ 3. Contains the exportations from all the out Ports of England for the same time.

„ 4. Contains the importations into all the out Ports for the same time.

„ 5. Contains the exportations from the Port of London from Christmas 1693 to Christmas 1694.

„ 6. Contains the importations into the Port of London for the same time.

„ 7. Contains the exportations from all the out Ports of England for the same time.

„ 8. Contains the importations into all the out Ports for the same time.

„ 9. Contains the exportations from the Port of London from Christmas 1694 to Christmas, 1695.

„ 10. Contains the importations into the Port of London for the same time.

„ 11. Contains the exportations from all the out Ports of England for the same time.

„ 12. Contains the importations into all the out Ports for the same time.

[Read this day. Com. Book.]

(c^2) 16 Feb.—Account of the number of English and foreign ships arrived from and cleared to foreign parts in London and to the out Ports in the years underwritten:

—	London.				Out Ports.			
	Inwards.		Outwards.		Inwards.		Outwards.	
	English.	Foreign.	English.	Foreign.	English.	Foreign.	English.	Foreign.
From Michaelmas 1692 to Michaelmas 1693	326	647	401	478	453	264	617	324
From Michaelmas 1693 to Michaelmas 1694	531	612	354	332	499	295	468	288
From Michaelmas 1693 to Michaelmas 1695*	459	465	518	410	633	211	620	236
From Michaelmas 1695 to Michaelmas 1696†	354	588	454	360	341	100	287	278
Total of ships -	1670	2312	1727	1580	1926	870	1992	1126
	187,040	289,000	193,424	197,500	138,672	85,260	143,424	110,348

* Ships to and from Newcastle not here charged.
† Ships to and from 9 of the out-ports not inserted here, the accounts being not yet come up.

Memor: That the English ships in the Port of London, according to a medium, may be estimated, one with another, at 112 tons each, the foreigners at 125 each. That the English ships in

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the out-Ports, aceording to a medium, may be estimated one with another at 72 each, the foreigners at 98 each. *Endorsement,* signed by John Fenton, Secretary to the Commissioners, states that the above aeeount is extracted out of the General Register of Shipping, and delivered to the Commissioners of his Majesty's Customs, by a clerk appointed for that purpose. [Read this day. Com. Book.]

(*d*) 16 Feb.—Copy Presentment for Commission to empower persons to swear the Governors in the Plantations, &c. Lib. XIV., p. 214, as follows:—

Custom House, London,
17 July 1696.

To the Right Honble. the Lords Commissioners of his Majesty's Treasury.

Presentment.

By the Commissioners for managing and causing to be levied and eolleeted his Majesty's Customs, Subsidies, and other Duties.

By a clause in the Aet of Parliament made in the 7th and 8th years of his Majesty's reign, intituled An Aet for preventing Frauds and regulating Abuses in the Plantation Trade, it is provided that all the present Governors or Commanders-in-Chief of every English Colony and Plantation shall, before the 25th day of Mareh 1697, and all who hereafter shall be made Governors or Commanders-in-Chief of the said Colonies or Plantations, or any of them, before their entranee into their governments, shall take a solemn oath to do their utmost that all the clauses, matters and things eontained in the Aet for encouraging and inereasing of shipping and navigation, made in the 12th year of the reign of King Charles the Second, and all other laws which have been since made for the better regulating and securing the Plantation trade, and now in foree, and that all the clauses contained in this present Act shall be punctually and bonâ fide observed aceording to the true intent and meaning thereof; and this oath being to be taken before such person or persons as shall be appointed by his Majesty, his heirs and suceessors, who are thereby authorized to administer the same, so far as appertains to the said Governors or Commanders-in-Chief respectively, The Commissioners do herewith humbly lay before their Lordships the form of a Commission, whieh hath been approved of by his Majesty's Attorney General, and pray that their Lordships will please to be a means that the same may pass under the broad seal, empowering Ralph Wormley, William Bird, Edward Hill, Richard Lee, John Lear, Christopher Wormley, Edmond Jennings, Edwd. Randolph, Charles Searborough, Edwd. Chilton, Peter Jennings and the Attorney General for the time being, Esquires, or any five or more of the members of the Council in his Majesty's Colony of Virginia for the time being, to administer the oath before direeted to the Governor or Commander-in-Chief of the said Colony, according to the form therein mentioned, whieh hath been likewise approved by his Majesty's said Attorney General, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to Sir Thomas Lawrence, Baronet, Edward Randolph, Henry Jolly, George Robotham, James Frisbey, John Addison, Thomas Brookes, Edward Chilton, Peter Jennings, George Muschamp and Philip Clarke, Esquires,

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empowering them, or any five or more of the members of the Council in his Majesty's Province of Maryland for the time being, to administer the said oath to the Governor or Commander-in-Chief of the said Province, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to Frederick Philips, Stephen Courtland, Peter Byard, William Smith, William Penhorne, Edwd. Randolph and his Majesty's Attorney General for the time being, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's Province of New York for the time being, to administer the same oath to the Governor, or Commander-in-Chief of the said Province, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to Thomas Danforth, Peter Sarjeant, Elisha Hutchinson, Jonathan Curwin, James Russell, John Philips, Edwd. Randolph, Nathaniel Byfield, Benjn. Ballivant, Lawrence Hammond, and Jahleel Brenton, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's Province of the Massachusetts Bay for the time being, to administer the same oath to the Governor, or Commander-in-Chief of the said Province, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to John Bourden, Peter Beckford, Nicholas Laws, Charles Knight, Thomas Sutton, John Peake, Charles Whittel, Richd. Lloyd, and Edward Randolph, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's island of Jamaica for the time being, to administer the same oath to the Governor or Commander-in-Chief of the said island, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to Thomas Hill, Charles Pymm, Joseph Tory, Edward Earles, Philip Lea, Samuel Gardner, Henry Carpenter, Nathl. King and Edward Randolph, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's island of Nevis for the time being, to administer the same oath to the Governor or Commander-in-Chief of the said island, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to Nathaniel Blackiston, Thomas Hill, John Simms, John Devereux, Thomas Roach, Nicholas Mead, William Hicks, Thomas Newgent, Edward Ruded and Edward Randolph, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's island of Montserrat for the time being, to administer the same oath to the Governor or Commander-in-Chief of the said island, or to the Governor or Commander-in-Chief there for the time being.

The like Commission to Thomas Hill, Rowland Williams, John Barry, Nicholas Rainsford, John Vernon, Samuel Winthorpe, William Barnes, John Williams, Archibald Cockaine, John Lingham, William Dobbins, and Edward Randolph, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's island of Antego [Antigua] for the time being, to administer the same oath to the Governor or Commander-in-Chief of the said island, or to the Governor or Commander-in-Chief, there for the time being.

The like Commission to Francis Bond, Edward Cranfield, John Farmer, Richd. Salter, Richd. Lillington, George Andros, John Branckley, William Sharpe, Patrick Mein, Robt. Bishop,

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Jonathan Langley, Robt. Scott, John Boteler, Benjamin Crier, Richard Wallup and Edward Randolph, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's island of Barbadoes for the time being, to administer the same oath to the Governor or Commander-in-Chief of the said island, or to the Governor or Commander-in-Chief there for the time being.

And the like Commission to Richd. Penniston, William Pitt, Thomas Foster, Thomas Overbridge, John Robinson, Saml. Trott and Edwd. Randolph, Esquires, empowering them, or any five or more of the members of the Council in his Majesty's island of Bermudas for the time being, to administer the same oath to the Governor or Commander-in-Chief of the said island, or to the Governor or Commander-in-Chief there for the time being.

And whereas it hath been found by experience that, either through the remissness or connivance of the Governors of the several Colonies and Plantations which are under distinct proprieties, the Acts of Trade and Navigation, and the Commissioners' orders and instructions in pursuance thereof, have not been there observed, as in other of the Colonies and Plantations which are under Governors nominated and appointed by his Majesty's immediate Commission, they do further humbly move their Lordships that the respective Governors of the said proprieties may be persons of good estates and reputation, and otherwise duly qualified for the discharge of their trusts, being by a clause in the aforesaid Act for preventing Frauds and regulating Abuses in the Plantation trade, to be allowed and approved by his Majesty, his heirs and successors, and obliged to take the oaths enjoined by that or any other Act to be taken by the Governors or Commanders-in-Chief in other his Majesty's Colonies and Plantations before their entrance on their respective governments under the like penalties which his Majesty's Governors and Commanders-in-Chief are by the said Act liable to.

Whereas, by the Act made the 22nd and 23rd years of the reign of King Charles the 2nd, it is provided, that, if any ships or vessels shall lade any of the enumerated commodities before bond given, in manner therein directed, to carry the said goods to some other of his Majesty's Plantations, or to England, Wales, or Berwick, or which, contrary to such bond, shall carry the said goods to any place other than to such other English Plantations as do belong to his Majesty, or to England, Wales, or Berwick, and there lay the same on shore, every such ship or vessel shall be forfeited, with her guns, furniture and lading, the one moiety thereof to the King's Majesty, and the other to him or them that shall seize and sue for the same in any of the said Plantations in the Court of the High Admiral of England, or of any of his vice admirals, as well as in any Court of Record in England, and, by the aforesaid Act for preventing fraud and regulating abuses in the Plantation trade, the penalties and forfeitures therein mentioned are to be recovered in any of his Majesty's Courts at Westminster, or in the kingdom of Ireland, or in the Courts of Admiralty held in his Majesty's Plantations respectively where the offence shall be committed, at the pleasure of the officer or informer, or in any other Plantation belonging to any subjects of England, the Commissioners do humbly move, as highly conducing to the due execution of these and other penal laws for the good of the Plantation trade, that such Courts

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of Admiralty may be erected in each respective Plantation, and that persons of known ability and integrity may, by commission from the Lords of the Admiralty, be accordingly empowered for these purposes, and that likewise persons of experience in the laws may be nominated and recommended by the King to the respective Governors to be employed as Attorneys-General for the prosecution of bonds, trying of seizures, and other matters relating to the Crown. [Delivered this day. Com. Book.]

(*e.*) 16 Feb. — Report of the Attorney-General and Solicitor General to the Committee of Trade and Plantations upon the grants of Newcastle, &c. to Mr. Penn, vizt. :—

May it please your Lordships.

Mr. Penn acquainting us that it was your Lordships' pleasure that we should lay before your Lordships his title to the country of Newcastle and all the tracts of land depending thereon in America, to which, as well as Pennsylvania, the powers of Col. Fletcher's Commission do extend, he also produced to us the writings and evidences following, that is to say :—

One Indenture, bearing date the 24th day of August 1682, made between his Royal Highness James, Duke of York &c., of the one part, and the said Mr. Penn, of the other part, whereby his said Royal Highness, for the good will he bore to Mr. Penn, and for the consideration of 10*s.*, did bargain, sell, enfeoff, and confirm to the said Mr. Penn, his heirs and assigns, all that the town of Newcastle, otherwise called Delaware, in America, and all that tract of land lying within the compass or circle of twelve miles about the same, situate, lying and being upon the River Delaware in America, and all islands in the Island Delaware, and the said river and soil thereof lying north of the southernmost part of the said circle of twelve miles about the said town, together with all rents, services, royalties, franchises, duties, jurisdictions, liberties, and privileges thereunto belonging; and all the estate, right, title, interest, powers, property, claim and demand whatsoever of his said Royal Highness of, in, or to the same, or to any part or parcel thereof, with a saving to his said Royal Highness, his agents and servants, the free use of all ports, ways and passages into, through and out of the bargained premises, and under the reserved rent of 5*s.* to his said Highness, his heirs and assigns, at Michaelmas yearly, with a covenant from Mr. Penn, his heirs and assigns, to pay the same rent accordingly, and a covenant from his Royal Highness, his heirs and assigns, with Mr. Penn, for making further assurance during seven years, and a letter of attorney in the body of the deed to two persons to make livery. The deed is endorsed to be entered in the Office of Records for the Province of New York, the 21st of November 1682, and enrolled in the Ex-chequer in 1684.

One other Indenture, of the same date with the other, whereby his said Royal Highness, for 10*s.* and other considerations therein mentioned, did bargain, sell, enfeoff and confirm unto the said Mr. Penn, his heirs and assigns, all that tract of land upon Delaware River and Bay, beginning twelve miles south from the town of Newcastle, otherwise called Delaware, and extending south to the "Hore Kills," otherwise called "Copin Lopen," [Cape Henlopen] together with free and undisturbed use and passage into and out of all harbours, bays, waters, rivers, isles and inlets belonging to or leading to the same, together with the soil,

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fields, woods, underwoods, mountains, hills, fens, isles, lakes, rivers, rivulets, bays and inlets situate in or belonging unto the limits and bounds aforesaid, together with all sorts of minerals, and all the estate, interest, royalties, franchises, powers, privileges and immunities whatsoever of his said Royal Highness and his heirs, as of their Castle of New York in free and common soccage, under the yearly rent of one rose at Michaelmas yearly, if demanded. Mr. Penn covenants within a year to ereet a Registry upon the premises, and therein to set down all rents and profits which he, his heirs, or assigns should any ways make, raise, or procure out of the premises, and at Michaelmas yearly to pay and deliver to his said Highness, his heirs and assigns, one moiety thereof, with power of distress to his Highness, his heirs and assigns, for non-payment thereof, and a covenant for his Highness, his heirs and assigns, to make further assurance during seven years. The Indenture of the inheritance is endorsed to be entered in the Office of Records for the Province of New York the 21st of November 1682, and there is a letter of attorney in it to make livery.

By virtue of which deeds Mr. Penn affirms he quietly held and enjoyed all the premises thereby granted as fully as he did the Province of Pennsylvania, until the coming of Col. Fletcher, and his entrance by virtue of his Commission; and that the inhabitants of these countries, as well as those of Pennsylvania, constituted the Assembly held under Colonel Fletcher, who made those laws which are now humbly offered to her Majesty's Royal approbation.

Signed Edward Ward.
Thomas Trevor.

25th July 1694.

[Read this day. Com. Book.]

(*f*) 20 Feb.—Representation of the Council of Trade relating to the Governors of Plantations under distinct proprieties, vizt.:—

To their Excellencies the Lords Justices.

May it please your Excellencies

The Extract of a Presentment from the Commissioners of his Majesty's Customs (whereof a copy is hereunto annexed) having been transmitted to us by command of the Right Honble. the Lords Commissioners of his Majesty's Treasury, we humbly represent to your Excellencies that, in concurrence with what is moved for by the said Commissioners of the Customs, and in conformity to an Act passed in the last Session of the present Parliament, intituled An Act for preventing Frauds and regulating Abuses in the Plantation Trade, we are of opinion that it is requisite Commissioners should be appointed for administering the oath or oaths enjoined by the said Act to the several Governors of those Plantations that are under distinct proprieties in the same manner as to the Governors and Commanders-in-Chief in other his Majesty's Colonies and Plantations.

Whitehall, Aug. 12 1696.

Signed J. Bridgewater.
Ph. Meadows.
John Pollexfen.
John Locke.
Abr. Hill.

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Here follows the Presentment above referred to, vizt. :—

Extract of a Presentment from the Commissioners of his Majesty's Customs to the Right Honble. the Lords Commissioners of his Majesty's Treasury, dated the 17th day of July, 1696.

Whereas it hath been found by experience that, &c. * * * * * are by the said Act liable to. (*See* p. 424.)

[*Endorsed* as read this day. Com. Book.]

(*g*) 20 Feb.—Representation of the Council of Trade relating to the settling of Admiralty Courts in the Plantations, vizt. :—

To their Excellencies the Lords Justices.

May it please your Excellencies.

Upon an intimation, made to this Board by the Right Honble. the Earl of Bridgwater, that your Excellencies expected our opinion on the Proposal of the Commissioners of the Customs for erecting of Courts of Admiralty in the Plantations, as well as upon that for constituting of Attorneys General, required of us by your Order of the 23rd of July last, we humbly represent to your Excellencies that, in our opinion, the erecting of such Courts of Admiralty will conduce to the due execution of the penal laws for the good of the Plantation trade.

Whitehall, Aug. 19 1696.

Signed J. Bridgewater.
Ph. Meadows.
John Pollexfen.
John Locke.
Abr. Hill.

[Delivered in this day. Com. Book.]

(*h*.) 20 Feb.—Representation of the Council of Trade, dated 17 Dec. 1696, relating to the settling of Admiralty Courts in the Plantations, as follows :—

To the King's Most Excellent Majesty.

May it please your Majesty.

Having in August last received directions from the late Lords Justices to give our opinion on the Presentment of the Commissioners of the Customs for erecting of Courts of Admiralty in the Plantations, we did, on the 13th of that month, humbly represent to their Excellencies our opinion that the erecting such Courts of Admiralty would conduce to the due execution of the laws for the good of the Plantation trade. And, their Excellencies having likewise ordered the Lords Commissioners of the Admiralty to consider of the erecting of Admiralty Courts in the said Plantations, their Lordships did, on the 19th of November last, represent to your Majesty that all the Governors of your Majesty's Colonies and Plantations had Commissions to be Vice-Admirals, or might have them if they made application for the same ; and, it appearing by a list presented at the same time by the said Lords Commissioners that there were divers Colonies and Plantations in America where no Commissions of Vice-Admiralty had been granted by them, your Majesty was then pleased in Council to signify your pleasure to us that we should consider to what other Plantations such Commissions may or ought to be granted, for the better execution of the late Act of Parliament for preventing frauds and regulating abuses in the Plantation trade and other parts of your Majesty's service ; it did upon examination appear unto us, that no such Commissions of Vice-Admiralty had been granted to any of your Majesty's Colonies or Plantations governed by Proprietors or charters ;

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and, being informed that they had declined the same, we thereupon thought fit to consult your Majesty's Attorney-General whether your Majesty might not, by your Commissioners of the Admiralty, appoint Admiralty Courts within such proprieties and charters, with an Advocate-General and other officers proper to such Courts, who has reported unto us that he did not find anything within the said grants of proprieties and charters that does restrain your Majesty's power of erecting such Courts of Admiralty in the said Plantations, and of appointing Advocates General and such other officers for the prosecution of suits in such Courts of Admiralty as shall be thought convenient; which opinion, hereunto annexed (Paper h^1), we having communicated to the several Proprietors, or their agents, and discoursed with them, they appeared unwilling to abide by or acquiesce therein, insisting as well upon their own right of Admiral jurisdiction, as the inconveniency of such proceeding; and have presented unto us the Paper which is likewise hereunto annexed (Paper h^2); And, inasmuch as we find thereby your Majesty's power of appointing such Courts and officers brought into question, which we humbly conceive is not proper for us to determine, we do therefore humbly submit the whole matter to your Majesty's Royal pleasure.

Whitehall, 17 Dec. 1696.

J. Bridgewater.
Ph. Meadows.
Wm. Blathwayt.
John Pollexfen.
Abr. Hill.

[Read this day. Com. Book.]

(h^1.) 20 Feb.—Copy Attorney-General's opinion about the erecting of Admiralty Courts in the Plantations under distinct proprietics, referred to in the Representation of 17 Dec. 1696, as follows:—

Sir,

According to the commands of the Lords Commissioners of Trade, signified to me by your letter of the 21st of November last, I have considered of the several charters granted to the Proprietors of the several Plantations following, vizt.:—Rhode Island, Connecticut, Pennsylvania, Carolina, Bahama Islands, East and West New Jersey, Newcastle and the county of Delaware; and, upon perusal of the abstracts of the said respective charters, I do not find anything therein that does restrain his Majesty's power of erecting Courts of Admiralty in the said respective Plantations; and therefore I am humbly of opinion that his Majesty may, if he thinks fit, direct the Commissioners of the Admiralty in England to issue Commissions for exercising Admiralty jurisdiction in the said respective Plantations, and may appoint Advocates General and such other officers for the prosecution of suits in such Admiralty Courts as shall be thought convenient. *Signed* Thomas Trevor. *Dated* Inner Temple, 4 Dec. 1696.

(Annexed to preceding paper.) [Read this day. Com. Book.]

(h^2.) 20 Feb.—Copy Memorial of the Proprietors of several Plantations about the erecting of Admiralty Courts there, referred to in the Representation of 17 Dec. 1696, vizt.:—

To the Right Honble. the Lords Commissioners of Trade and Plantations.

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The Lords Proprietors, Agents and others of the Provinces of Carolina, Bahama Islands, Pennsylvania, East and West Jersey and Connecticut in America, protesting their loyalty and duty to his Majesty, and reserving the benefit of being heard by themselves or counsel to their right and power of erecting Courts of Admiralty in the said Provinces, do offer that there are several clauses in their respective grants and charters which (as they are advised) import and imply a grant of Admiral jurisdiction and power of ereeting the said Courts, and constituting judges and officers thereof, in the said Provinces: That the reason why they have not hitherto erected such Courts, or constituted such officers, is that all suits or informations upon and for the breach of the Acts of Navigation may, as appears by the said Acts, and particularly by the 15th of King Charles the Second, be brought and prosecuted in the Common Law Courts, and that the erecting Courts of Admiralty would have occasioned salaries and other great and expensive charges: That they apprehended there was no necessity of such Courts, unless for the condemnation of prizes, few or none of which have been brought into the said Provinces during this war, in order to be there tried and condemned. That the said Proprietors are, nevertheless, willing and ready to erect such Courts and constitute such able officers as shall be well affected to his Majesty's Government, careful of his interest, use their utmost endeavours to enforce an observance of the said Acts of Navigation, and zealously prosecute such vessels and persons as shall be guilty of the breach of them. All which is humbly offered and submitted. (Annexed to Paper *h*.) [Read this day. Com. Book.]

(*i*) 20 Feb. 1696–7.—Copy Representation of the Council of Trade to the King, relating to a Governor for the Bahama Islands, vizt.:—

May it please your Majesty.

It being provided by a late Act of Parliament for preventing Frauds and regulating Abuses in the Plantation Trade that Governors, nominated and appointed by such persons or Proprietors who shall be entitled to make such nomination, shall be allowed and approved of by your Majesty, and shall take the oaths enjoined by that or any other Act to be taken by the Commanders-in-Chief in other your Majesty's Colonies and Plantations before their entering upon their governments: And, the Lords Proprietors of the Bahama Islands having nominated and appointed Nicholas Webb, Esq., to be Governor of the Islands of Providence, Eleutheria, and the rest of the Bahama Islands, and presented him to us, that he may be allowed and approved of by your Majesty, we desired to be informed from the said Lords Proprietors and the said Captain Webb—

1. Whether the said Captain Webb were ready to take the oaths to your Majesty, and sign the Association and take the other oaths required by law for the observation of the Acts of Trade?
2. What is the salary appointed him?
3. What security is taken for his good demeanour in that government?

To which questions we have received answer that he is ready to take all the oaths required by law, and sign the Association; that the salary appointed him, as to former Governors, is the seventh part of the rents of the Lords Proprietors in those Islands, which we understand does not amount in value to above

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100*l.* a year; that, as to the security, the said Proprietors have not required any, he being, as they inform us, well recommended to them. But, inasmuch as great exorbitances have been lately committed upon those Islands, in harbouring of Every and other notorious pirates, to the detriment and discouragement of trade and dispeopling your Majesty's Plantations, besides the violation of the Acts of Navigation by illegal traders, it seems to us necessary that a better salary be allowed by the Lords Proprietors for the support of the Governor, lest he be tempted to use the same courses as his predecessors, and that a security be also given to your Majesty to deter him from the like practices, and to answer the forfeiture of 1,000*l.* sterling, directed by the Act of Parliament aforementioned, upon his offending contrary to the said Act. All which being first complied with, we see no reason why your Majesty may not thereupon be pleased to approve of the said Governor. Which, nevertheless, we humbly submit to your Majesty's great wisdom.

Whitehall, 28 Jan. 1696-7. *Signed* J. Bridgewater.
Ph. Meadows.
Wm. Blathwayt.
Jno. Pollexfen.
Abr. Hill.

Endorsed as read this day. Com. Book.

(*k*) 20 Feb.—Copy Representation of the Council of Trade to the King, relating to a Governor for the Bahama Islands, vizt.:—

To the King's Most Excellent Majesty.

May it please your Majesty.

In obedience to your Majesty's Order in Council, dated the 28th January, that we should make enquiry into the behaviour of Nicholas Webb, Esq., towards your Majesty and your Government, before the time of his being appointed Governor of the Bahama Islands by the Lords Proprietors of those Islands, we have made further enquiry concerning him of several persons, who have not objected anything against him, and from the Lords Proprietors we have received an answer to this effect:—

That they have no manner of cause to suspect his good affection to the present Government, and that heretofore he had been so well recommended by the Lord Howard of Effingham, late Governor of Virginia, that, had he been more early in his application, their Lordships had given him that post, when they sent their last Governor; and now, being recommended by many persons of honour and several eminent merchants entirely well affected to this Government, they had granted his Commission before they sent for him to town.

This being the account we have received, relating to the character of the said Capt. Webb, and the Lords Proprietors having also, in testimony of their good opinion, augmented his salary, we do not find anything to object why your Majesty may not be pleased to grant him your Royal approbation. All which is, nevertheless, most humbly submitted.

Whitehall, 11 Feb., 1696-7. *Signed* J. Bridgewater.
Tankerville.
Ph. Meadows.
Wm. Blathwayt.
J. Pollexfen.
Abr. Hill.

Endorsed as read this day. Com. Book.

(*l*) 20 Feb.—Copy of Col. Fletcher's Commission for the Government of New York, vizt. :— 1696-7.

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William and Mary, by the Grace of God King and Queen of England, Scotland, France and Ireland, Defenders of the Faith, &c. To our trusty and well-beloved Benjamin Fletcher, Esq., Greeting. We, reposing especial trust and confidence in the prudence, courage and loyalty of you the said Benjamin Fletcher, out of our especial grace, certain knowledge and mere motion, have thought fit to constitute and appoint and we do by these presents constitute and appoint you the said Benjamin Fletcher to be our Captain-General and Governor-in-Chief in and over our Province of New York, and the territories depending thereon, in America. And we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present commission, and the instructions herewith given you, or by such further power, instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual, or by our Order in our Privy Council, and according to such reasonable laws and statutes as now are in force, or hereafter shall be made and agreed upon by you, with the advice and consent of the Council and Assembly of our said Province under your government, in such manner and form as is hereafter expressed.

And we do hereby give and grant full power unto you the said Benjamin Fletcher, after you shall first have taken an oath for the due execution of the office and trust of our Captain-General and Governor-in-Chief in and over our said Province of New York and the territories depending thereon, which our said Council, or any five of them, have hereby full power and authority and are required to administer unto you, to give and administer unto each of the members of our said Council as well the oaths appointed by Act of Parliament to be taken instead of the oaths of Allegiance and Supremacy as the Test and the oath for the due execution of their places and trust.

And we do hereby give and grant unto you full power and authority to suspend any of the members of our said Council from sitting, voting and assisting therein, if you shall find just cause for so doing.

And, if it shall at any time happen that, by the death, departure [out] of our said Province, or suspension of any of our councillors, there shall be a vacancy in our said Council (any three whereof we do hereby appoint to be a quorum), our will and pleasure is that you signify the same unto us by the first opportunity, that we may under our Signet and Sign Manual constitute and appoint others in their stead. But, that our affairs at that distance may not suffer for want of a due number of councillors, if it ever shall happen that there be less than seven of them residing in our said Province, we do hereby give and grant unto you full power and authority to choose as many persons out of the principal freeholders inhabitants thereof as will make up the full number of our said Council to be seven, and no more; which persons by virtue of such choice shall be to all intents and purposes councillors in our said Province until they shall be confirmed by us, or that, by the nomination of others by us under our Sign Manual and Signet, the said Council shall have seven persons in it.

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We do hereby give and grant unto you full power and authority, with the advice and consent of our said Council, from time to time as need shall require to summon and call General Assemblies of the inhabitants being freeholders within your government according to the usage of our Colony of New York.

And our will and pleasure is that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places and so returned, and having before their sitting taken the oaths appointed by Act of Parliament to be taken instead of the oaths of Allegiance and Supremacy, and subscribed the Test, which you shall commissionate fit persons under our seal of New York to administer, and without taking and subscribing whereof none shall be capable of sitting, though elected, shall be called and held the General Assembly of that our Province and territories depending thereon.

And that you the said Benjamin Fletcher, by and with the consent of our said Council and Assembly, or the major part of them respectively, shall have full power and authority to make, constitute and ordain laws, statutes and ordinances for the public peace, welfare, and good government of our said Province, and of the people and inhabitants thereof, and such others as shall resort thereto, and for the benefit of us, our heirs and successors.

Which said laws, statutes, and ordinances are to be, as near as may be, agreeable to the laws and statutes of this our Kingdom of England.

Provided that all such laws, statutes and ordinances, of what nature or duration soever, be, within three months or sooner after the making thereof, transmitted unto us under our seal of New York, for our approbation or disallowance of the same, as also duplicates thereof by the next conveyance.

And, in case any, or all of them, being not before confirmed by us, shall at any time be disallowed and not approved, and so signified by us, our heirs and successors, under our or their Sign Manual and Signet, or by Order of our or their Privy Council, unto you the said Benjamin Fletcher, or to the Commander-in-Chief of our said Province for the time being; then such and so many of them as shall be so disallowed and not approved shall from thenceforth cease, determine and become utterly void and of none effect, anything to the contrary thereof notwithstanding.

And to the end nothing may be passed or done by our said Council or Assembly to the prejudice of us, our heirs and successors, we will and ordain that you the said Benjamin Fletcher shall have and enjoy a negative voice in the making and passing of all laws, statutes and ordinances as aforesaid.

And that you shall and may likewise, from time to time as you judge it necessary, adjourn, prorogue, and dissolve all General Assemblies as aforesaid.

Our will and pleasure is that you shall and may keep and use the public seal appointed or to be appointed by us for our Province of New York.

We do further give and grant unto you the said Benjamin Fletcher full power and authority, from time to time and at any time hereafter, by yourself or any other to be authorised by

you in that behalf, to administer and give the oaths appointed by Act of Parliament to be taken instead of the oaths of Allegiance and Supremacy to all and every such person or persons as you shall think fit, who shall at any time or times pass into our said Province, or shall be resident or abiding there.

And we do by these presents give and grant unto you full power and authority, with the advice and consent of our said Council, to erect, constitute and establish such and so many Courts of Judicature and public justice, within our said Province and the territories under your government, as you and they shall think fit and necessary for the hearing and determining of all causes, as well criminal as civil, according to law and equity, and for awarding of execution thereupon, with all reasonable and necessary powers, authorities, fees, and privileges belonging unto them, as also to appoint and commissionate fit persons in the several parts of your government to administer the oaths appointed by Act of Parliament to be taken instead of the oaths of Allegiance and Supremacy and the Test unto such as shall be obliged to take the same.

And we do hereby authorise and empower you to constitute and appoint judges, justices of the peace, and other necessary officers and ministers in our said Province, for the better administration of justice and putting the laws in execution, and to administer, or cause to be administered, such oath or oaths as are usually given for the due execution and performance of offices and places, and for the clearing of truth in judicial causes.

We do further by these presents will and require that appeals be permitted to be made in cases of error from our Courts in New York unto our Governor and to our Council in civil causes, provided the value appealed for does exceed the sum of one hundred pounds sterling, and that security be first given by the appellant to answer such charges as shall be awarded in case the first sentence shall be affirmed.

And, whereas we do judge it necessary that all our subjects may have liberty to appeal to our Royal person in cases that may deserve the same, our will and pleasure is that, if either party shall not rest satisfied with the judgment or sentence of our Governor and Council, they may then appeal unto us in our Privy Council, provided the matter in difference exceed the real value and sum of three hundred pounds sterling, and that such appeal be made within one fortnight after sentence and security be likewise duly given by the appellant to answer such charges as shall be awarded in case the sentence of the Governor and Council be confirmed; and provided also that execution be not suspended by reason of any such appeal unto us.

And we do hereby give and grant unto you full power and authority, where you shall judge any offenders in criminal matter, or for any fines or forfeitures, fit objects of our mercy, to pardon and remit such offenders' fines and forfeitures before or after sentence given, treason and wilful murder only excepted, in which case you shall likewise have power, upon extraordinary occasions, to grant reprieves to the offenders until our Royal pleasure may be known therein.

We do by these presents authorise and empower you to collate any person or persons in any churches, chapels, or other ecclesiastical

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benefices within our said Province and territories aforesaid, as often as any of them shall happen to be void.

We do hereby give and grant unto you the said Benjamin Fletcher, by yourself, your captains and commanders by you to be authorised, full power and authority to levy, arm, muster, command and employ all persons whatsoever within our said Province of New York and other the territories under your government, and, as occasion shall serve, them to transfer from one place to another, for the resisting and withstanding of all enemies, pirates and rebels, both at sea and land, and to transport such forces to any of our Plantations in America, as occasion shall require, for the defence of the same against the invasion or attempts of any of our enemies. And them, if occasion shall require, to prosecute in or out of the limits of our said Province and Plantations, or any of them. And, if it shall please God, them to vanquish, apprehend and take, and, being taken, either according to the law of arms to put to death, or keep and preserve alive at your discretion. And to execute martial law in time of invasion, insurrection, or war, and during the continuance of the same, as also upon soldiers in pay, and to do and exceute all and every other thing or things which to a Captain-General doth or ought of right to belong, as fully and amply as any our Captain-General doth or hath usually done.

And we do hereby give and grant unto you full power and authority to erect, raise and build in our said Province and territories depending thereon such and so many forts and platforms, castles, cities, boroughs, towns and fortifications, as you, by the advice aforesaid shall judge necessary. And the same or any of them to fortify and furnish with ordnance, ammunition and all sorts of arms fit and necessary for the security and defence of our said Province.

And we do hereby give and grant unto you the said Benjamin Fletcher full power and authority to erect one or more Court or Courts Admiral within our said Province and territories, for the hearing and determining of all marine and other causes and matters proper therein to be heard, with all reasonable and necessary powers, authorities, fees and privileges. As also to exercise all powers belonging to the place and office of Vice-Admiral of and in all the seas and coasts within your government, according to such commission, authorities and instructions as you shall receive from our self under the seal of our Admiralty, or from our High Admiral or Commissioners for executing the office of High Admiral of our Foreign Plantations for the time being.

And, forasmuch as divers mutinies and disorders do happen by persons shipped and employed at sea, in order that they may be the better governed and ordered, we do hereby give and grant unto you the said Benjamin Fletcher, our Captain-General and Governor-in-Chief, full power and authority to constitute and appoint captains, masters of ships and other commanders, and to grant to such captains, masters of ships and other commanders commissions to execute the law martial, and to use such proceedings, authority, punishment, correction and execution upon any offender or offenders which shall be mutinous, seditious, disorderly, or any way unruly, either at sea or during their time of abode or residence in any of the ports harbours, or bays of our said

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Province or territories, as the cause shall be found to require, according to martial law. Provided that nothing herein contained shall be construed to the enabling you, or any by your authority, to hold plea or have jurisdiction of any offence, cause, matter, or thing committed or done upon the high sea, or within any of the havens, rivers, or creeks of our said Province or territories under your government by any captain, commander, lieutenant, master, or other officer, seaman, soldier or person whatsoever who shall be in actual service and pay in and on board any of our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral of England under the seal of our Admiralty, or from our High Admiral of England for the time being, but that such captain, commander, lieutenant, master, officer, seaman, soldier, or other person so offending shall be left to be proceeded against and tried, as the merits of their offences shall require, either by commission under our Great Seal of England, as the Statute of the 28th of Henry the Eighth directs, or by commission from our said High Admiral according to the Act of Parliament passed in the 13th year of the reign of the late King Charles the Second, entitled An Act for the establishing articles and orders for the regulating and better government of his Majesty's navies, ships of war and forces by sea, and not otherwise, saving only that it shall and may be lawful for you, upon any such captain or commander refusing or neglecting to execute, or upon his negligent or undue execution of any of the written orders he shall receive from you for our service and the service of our said Province, to suspend him the said captain or commander from the exercise of his said office of commander, and commit him into safe custody, either on board his own ship or elsewhere, at the discretion of you, in order to his being brought to answer for the same by commission under our Great Seal of England, or from our said High Admiral as is before expressed. In which case our will and pleasure is that the captain or commander so by you suspended shall, during such his suspension and commitment, be succeeded in his said office by such commission or warrant officer of our said ship, appointed by our Commissioners for executing the office of our High Admiral of England, or by our High Admiral of England for the time being, as by the known practice and discipline of our Navy does and ought next to succeed him, as in case of death, sickness, or other ordinary disability happening to the commander of any of our ships of war, and not otherwise, you standing also accountable to us for the truth and importance of the crime and misdemeanors for which you shall so proceed to the suspending of such our captain or commander. Provided also that all such disorders and misdemeanours committed on shore by any captain, commander, lieutenant, master, or other officer, seaman, soldier, or person whatsoever belonging to any of our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral of England under the seal of our Admiralty, or from our High Admiral of England for the time being, may be tried and punished according to the laws of the place where any such disorders, offences and misdemeanours shall be so committed on shore, notwithstanding such offender be in our actual service and borne in our pay on board any such our ships

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of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral, or from our High Admiral as aforesaid, so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea.

Our will and pleasure is that all public money raised or to be raised within our said Province, and other the territories under your government, be issued out by warrant from you, by and with the advice and consent of the Council, and disposed of by you for the support of the government, and not otherwise.

And we do hereby likewise give and grant unto you full power and authority, by and with the advice of our said Council, to agree with the inhabitants of our Province and territories aforesaid for such lands, tenements and hereditaments as now are, or hereafter shall be, in our power to dispose of, and them to grant to any person or persons for such term and under such moderate quit-rents, services and acknowledgments to be thereupon reserved unto us as you, by and with the advice aforesaid, shall think fit, which said grants are to pass and be sealed by our seal of New York, and, being entered upon record by such officer or officers as you shall appoint thereunto, shall be good and effectual in law against us, our heirs and successors.

And we do hereby give you full power to order and appoint fairs, marts and markets, as also such and so many ports, harbours, bays, havens and other places for the convenience and security of shipping, and for the better loading and unloading of goods and merchandize, as by you, with the advice and consent of the said Council, shall be thought fit and necessary, and in them or any of them to erect, nominate and appoint custom-houses, ware-houses, and offices relating thereunto, and them to alter, change, place, or displace from time to time, as with the advice aforesaid shall be thought fit.

And we do by these presents will, require and command you to take all possible care for the discountenance of vice and encouragement of virtue and good living, that by such example the infidels may be invited and desire to partake of the Christian religion.

And our further will and pleasure is that you shall not at any time hereafter, by colour of any power or authority hereby granted or mentioned to be granted, take upon you to give, grant, or dispose of any office or place within our said Province and territories, which now is or shall be granted under the Great Seal of England, any further than that you may, upon the vacancy of any such office or suspension of any officer by you, put in any person to officiate in the interval, until the said place be disposed of by us under the Great Seal of England, or that our directions be otherwise given therein.

And we do hereby require and command all officers and ministers, civil and military, and all other inhabitants of our said Province and the territories depending thereon, to be obedient, aiding and assisting unto you the said Benjamin Fletcher in the execution of this our Commission and of the powers and authorities herein contained, and, in case of your death or absence out of our said Province and territories under your government, unto such person as shall be appointed by us to be Commander-in-Chief of our said Province, to whom we do by these presents give and

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grant all and singular the powers and authorities aforesaid, to be executed and enjoyed by him during our pleasure, or until your arrival within our said Province and territories. And if, upon such death or absence, there be no person upon the place commissionated or appointed by us to be Commander-in-Chief, our will and pleasure is that the then present Council of our said Province do take upon them the administration of the government and execute this Commission and the several powers and authorities herein contained relating to our said Province; and that the first councillor who shall be at the time of your death or absence residing within the same do preside in our said Council, with such powers and pre-eminences as any former president hath used and enjoyed within our said Provinces or any other our Plantations in America, until our pleasure be further known, or your arrival, as aforesaid.

And lastly, we do hereby declare, ordain and appoint that you the said Benjamin Fletcher shall and may hold, execute and enjoy the office and place of Captain-General and Governor-in-Chief in and over our Province of New York, and the territories depending thereon, together with all and singular the powers and authorities hereby granted unto you, for and during our will and pleasure.

Memdm.—The Great Seal is dated the 18th day of March, in the 4th year of their Majesties' reign.

[Delivered in this day. Com. Book.]

(*m*) 20 Feb.—Colonel Fletcher's Commission for the Government of New York and Pennsylvania, vizt.:—

William and Mary, by the Grace of God King and Queen of England, Scotland, France and Ireland, Defenders of the Faith &c. To our trusty and well-beloved Benjamin Fletcher, Esq., our Capt.-General and Governor-in-Chief of our Province of New York and the territories depending thereon in America, Greeting. Whereas, by our Commission under our Great Seal of England, bearing date the eighteenth day of March in the fourth year of our reign, we have constituted and appointed you the said Benjamin Fletcher to be our Captain-General and Governor-in-Chief in and over our Province of New York and the dependencies thereon in America, and have thereby granted unto you full power and authority, with the advice and consent of our Council, &c. (Here follows a recital almost *in extenso* of the powers given by the Commission for the Government of New York. *See* Paper (*l*).)

And whereas, by reason of great neglects and miscarriages in the government of our Province of Pennsylvania in America, and the absence of the Proprietor, the same is fallen into disorder and confusion, by means whereof not only the public peace and administration of justice (whereby the properties of our subjects should be preserved in those parts) is broken and violated, but there is also great want of provision for the guard and defence of our said Province, and the adjacent Colonies are much exposed, and in danger of being lost from the Crown of England; for the prevention whereof, as much as in us lies, and for the better defence and security of our subjects inhabiting those parts during the time of war, we find it absolutely necessary to take the government of our Province of Pennsylvania into our hands, and under our immediate care and protection.

We, therefore, reposing especial trust and confidence in the prudence, courage and loyalty of you the said Benjamin Fletcher, have

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thought fit to constitute and appoint you, the said Benjamin Fletcher, to be our Captain-General and Governor-in-Chief in and over our Province of Pennsylvania and country of Newcastle, and all the territories and tracts of land depending thereon in America. And we do accordingly by these presents command and require you to take the said Province and country under your Government.

And, for the better ordering, governing and ruling our said Province and country under your government, and the tracts and territories depending thereon, we do hereby give and grant unto you the said Benjamin Fletcher, all and every the like powers and authorities as in our said Commission bearing date the eighteenth day of March, in the fourth year of our reign are given, granted, and appointed you for the ruling and governing our said Province of New York, to be exercised in like manner by you the said Benjamin Fletcher, in and over our said Province of Pennsylvania and country of Newcastle and the territories and tracts of land depending thereon in America.

And we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present Commission, or Commission aforesaid, and such other instructions and authorities as are, or at any time hereafter shall be, granted or appointed you under our Signet, Sign Manual, or by our Order in our Privy Council, and according to such reasonable laws and statutes as now are in force, or hereafter shall be made and agreed upon by you, with the advice and consent of the Council and Assembly of our Province of Pennsylvania and country of Newcastle aforesaid.

And our will and pleasure is, and we do by these presents require and command you the said Benjamin Fletcher, until our further pleasure shall be known, to nominate and appoint a Lieutenant-Governor of our said Province of Pennsylvania and country of Newcastle, unto which Lieutenant-Governor we do hereby give and grant full power and authority to do and execute whatsoever he shall be by you authorised and appointed to do, in pursuance and according to the powers and authorities hereby granted unto you.

And our further will and pleasure is, and we do by these presents require and command you in like manner, to nominate and appoint such and so many councillors as you shall think requisite for our service, and not exceeding the number of twelve persons at the most, out of the principal freeholders and inhabitants of our said Province and country, which said councillors, or any three of them, shall be at all times held and deemed a Council to be aiding and assisting to you, and to our Lieutenant-Governor, with their advice in the administration of the public affairs of that our Province and country.

And we do hereby grant unto you full power and authority from time to time to suspend such our Lieutenant-Governor, or any members of our Council so appointed by you, from their respective places and trusts, if you shall find just cause for so doing, and to appoint others in their stead.

And whereas we have been informed of the good affection of the inhabitants of our Colonies of East and West New Jersey in America, and that the Militia of those Colonies consist of

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fourteen hundred men, well armed and disciplined, and it being convenient, in this time of danger, that the forces of our subjects inhabiting those parts be united as much as may be upon all occasions that may require the same, we have therefore thought fit, and we do by these presents grant full power and authority to you the said Benjamin Fletcher, and to the Governor and Commander-in-Chief of our Province of New York for the time being, for and during this present war between their Majesties and the French King, to draw out and command any part of the Militia of our Colonies of East and West New Jersey in America, not exceeding seven hundred men at any one time, and to cause them to march out of our said Colonies for the security or defence of New York or Albany, or any other parts or places of our Province of New York under your government, in case of any invasion or insurrection, or attempt of the French or Indians upon our said Province or any part thereof.

And we do hereby require and command all officers and ministers, civil and military, and all other the inhabitants of our Province of Pennsylvania and country of Newcastle, and our Colonies of East and West New Jersey respectively, to be obedient, aiding, and assisting unto you the said Benjamin Fletcher in the execution of this our Commission, and the powers and authorities herein contained; and, in case of your death or absence out of our Province of New York and Pennsylvania, our country of Newcastle and our colonies of East and West New Jersey, to be obedient, aiding and assisting unto such person as shall be appointed by us to be Commander-in-Chief of our Province of New York for the time being, to whom we do therefore, by these presents, give and grant all and singular the powers and authorities aforesaid, to be executed and enjoyed by him for and during our pleasure, or until your arrival within our Provinces and countries aforesaid. And if, upon such death or absence there be no person residing within our Provinces or countries commissionated or appointed by us to be Commander-in-Chief of our Province of New York, our will and pleasure is that the then present Council of New York do take upon them the administration of the government of our Province of Pennsylvania and country of Newcastle, and execute this Commission and the several powers and authorities herein contained, in like manner as in the government of our Province of New York.

And lastly, we do by these presents declare and appoint that you the said Benjamin [Fletcher] shall and may hold, exercise and enjoy the office and place of Captain-General and Governor-in-Chief in and over our Province of Pennsylvania and country of Newcastle and the territories and tracts of land depending thereon in America during our will and pleasure.

Memdm.

Col. Fletcher's Commission for the government of Pennsylvania, &c., bears date of the Great Seal from the 21st day of October 1692 in the fourth year of their Majesty's reign.

[Delivered in this day. Com. Book.]

(*n.*) 20 Feb.—Petition of the Proprietors of several Plantations to his Majesty upon the Representation of 17 Dec. 1696 about the erecting of Admiralty Courts there, as follows:—

To the King's Most Excellent Majesty.

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The Lords and others the Proprietors and Agents of the Provinces of Carolina, Bahama Islands, Pennsylvania, East and West Jersey, and Connecticut in America

Humbly offer—

That upon reading and perusal of a copy of a Representation bearing date the 17th of December last from the Council of Trade to your Majesty, the said Proprietors understand the said Council of Trade and also your Majesty's Attorney-General are of opinion that, notwithstanding the several charters granted to the said Proprietors, your Majesty may appoint and erect Courts of Admiralty in the said Provinces; and that the Lords of the Admiralty did on the 19th of November last represent to your Majesty that all the Governors of your Majesty's Colonies and Plantations had Commissions to be Vice-Admirals, or might have them if they made application for the same. The said Proprietors therefore most humbly pray that the Governors of the said several Provinces may have Commissions to be Vice-Admirals, with such powers relating to the Admiralty jurisdiction as the Governors of your Majesty's other Plantations have. All which is most humbly submitted, &c. *Signed* by Dan. Coxe, on behalf of himself and the rest of the Proprietors. Presented 21 Jan. 1696.

[Laid before the Committee this day. Com. Book.]

(*o*) 20 Feb.—List by Mr. Randolph of all the Proprietors of the Plantations that are independent of the Government of his Majesty, vizt.:—

Bahama Islands.—E. Craven, E. Bath, L. Berkeley, L. Ashley, L. Carteret, Sir John Colleton, who have the right to the soil and government of those islands.

Since the removal of M. Trott, their late Governor, they have appointed Capt. Nicholas Webb to be the Governor. He is allowed of by his Majesty's Order in Council. Those islands have been and still are a common receptacle for pirates and illegal traders. Cadwallader Jones, who preceded Mr. Trott, under pretence to make all officers, appointed one Boulton to be the officer of the Customs. He entered and cleared vessels according as the Governor and he pleased. The Commissioners of his Majesty's Customs have appointed a collector, who goes over with the Governor. It is a place of import and ought to be well secured, and may gain a great trade with the Spaniards, lying near the Cape of Florida. All appeals lie from their Courts to the Lords Proprietors in England.

Carolina.—E. Craven and the other Lords, &c., together with John Archdale, Junr., and Thos. Amey, Merchant, are the Lords Proprietors, and have the right to the soil and government thereof.

Mr. John Archdale, a Quaker, is Governor during his son's minority, who is one of the Proprietors, and has a right to the government whilst he remains in the Province. Charlestown is become a free port to all persons from all places. They trade to Carasaw [Curaçoa], an island belonging to the Dutch, from whence the manufacture of Holland is brought to Charlestown, and carried from thence by New England men and other illegal traders to Pennsylvania, Boston in New England, &c. They carry back provisions and tobacco, which are sent from Carolina to Carasaw, and from thence to Holland. About four years ago 70 pirates

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came with a vast quantity of gold from the Red Sea; they had liberty to stay in the country, or upon giving their bond to leave it. The Governor got well by them; he seized upon the vessel as wreck. The present Governor connives at the illegal trade; he gave a permit to the master of a vessel belonging to St. Thomas (an island inhabited by Danes), who, under pretence of wanting wood and water, sold his whole cargo of sugar and cocoa, taking no notice of the Commissioners of the Customs' collector. They have added to him a Comptroller. There is greatly wanting a Governor from his Majesty, to see the Acts of Trade duly executed. All appeals are likewise from the Courts in this Province to the Lords Proprietors.

North Carolina.—It belongs to the same Proprietors.

There are 60 or 70 families in it, but under no regular government. One Jarvis was the Deputy Governor, appointed by Col. Ludwell, then Governor of the Province; he had no salary. The inlet of Currituck lies convenient for small New England vessels to carry the tobacco out of the southern parts of Virginia to Boston, from whence they carry it in ships to Scotland directly. The inlet of Roanoake lies about 20 leagues to the southward from Currituck, and vessels from Barbadoes and Leeward Islands trade for provisions in Albemarle River. Pirates and runaways from Virginia, &c. are sheltered here. The Commissioners of the Customs have appointed two officers to take care of the trade.

Maryland.—The Lord Baltimore is the absolute Lord Proprietor of the soil and government thereof.

A great revenue arises yearly to his Majesty from the tobacco shipped from thence to England, and will increase considerably when the carrying tobacco from that Province by land to Delaware is stopped. Col. Francis Nicholson, the present Governor, has endeavoured to prevent it; he is an active man, and zealous to see the Acts of Trade duly observed.

The three lower counties of Sussex, Kent and Newcastle upon Delaware.—Mr. Penn is the Proprietor of the soil only.

The Duke of York obtained a grant of them from King Charles the Second, with power of government, and soon after let them by lease to Mr. Penn. He has set up a sort of government amongst the inhabitants. Those counties lie above 100 miles upon the southern part of Delaware Bay, the only place upon that bay where they plant tobacco. It is adjoining all along to Maryland, from whence great quantities of tobacco are some years brought over land to Delaware and shipped directly for Scotland. Nine vessels for the year 1690 to the year 1695 have carried tobacco out of the bay to Scotland directly, besides Gustavus Hamilton, the chief factor for the Scotch merchants in Glasgow, and two other vessels, who have since carried their tobacco to Glasgow directly. Pirates are harboured there, and purchase their provisions of bread, beer, &c. at Philadelphia. The Commissioners of the Customs have appointed two officers for those counties, but they will signify little till they are annexed to the government of Maryland, or otherwise, as his Majesty shall be pleased to appoint.

Pennsylvania.—Mr. Penn is the sole Proprietor, and has the right to the soil and government thereof.

Mr. Wm. Markham is by Mr. Penn's Commission the present Governor, to whom Samuel Carpenter and John Goodson (both Quakers) were, by another Commission from Mr. Penn, joined

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in the government with him, but refused to act. Patrick Robinson, a Scotchman, is Secretary of the Province, and David Floyd, a Quaker, is the country's Attorney-General. The Acts of Trade are not observed in this Province. The Judges in the Courts of Judicature are not legally qualified, neither can the officers of the Customs obtain justice for his Majesty. One vessel with Scotch goods came last year from Scotland, and was admitted to an entry at Philadelphia; another about the same time with wine and brandy from Norway, a Dutchman being her master. The Governor is a favourer of the pirates, which came from the South and the Red Sea about three or four years ago, and several Scotchmen are traders there. He desired me to make him Collector of the Customs in Pennsylvania, having (as he wrote me) but a small maintenance; by which your Lordships may please to take notice that Governors under such necessities will be easily tempted to do and connive at unlawful things. Pennsylvania lies in the centre between Maryland and New York, most commodiously for the illegal trade. It will soon become a staple of Scotch and Holland goods. No place has in so short a time been by such ways so greatly improved. The Commissioners of the Customs have appointed a Collector to reside at Philadelphia, but to little purpose till the government be duly regulated in relation to trade.

East and West Jerseys.—Sir John Moor and Sir Thomas Lane, Knts., Dr. Cox, Paul Dominick, Wm. Dockwray, Peter Summans, &c., are the present owners of the soil.

The Duke of York did likewise get a grant of these lands from King Charles the Second. He granted by lease the Province of East Jersey to Sir George Carteret, and West Jersey to the Lord Berkeley. They have had a variety of owners, and the government was always delegated with the soil. Edward Billing (the Quaker) was a great owner; he had a lease of West Jersey from the Lord Berkeley. East Jersey had several Scotchmen to be the Governors, who usurped a government over the inhabitants; and now, after great chopping and changing, they are the estate of the present Proprietors, who have appointed Col. Andrew Hamilton, a Scotchman, to be their Governor, who acts by a Commission under the seal of the Company (as they call themselves), signed by Mr. Dockwray, their Secretary. He raises money upon the inhabitants, and is a great favourer of the Scotch traders, his countrymen. He sat Judge in the Court last year at the trial of a vessel with goods from Scotland, and dismissed the cause upon the Master's sham petition. The Commissioners of the Customs have appointed an officer in each Province.

Colony of Connecticut in New England.—The government and soil thereof is holden by charter from King Charles the Second, and they choose a Governor and Assistants yearly.

The inhabitants are generally husbandmen and planters. They have convenient harbours, where illegal traders frequent. Col. Robert Treat is their present Governor; he permitted a vessel from Holland, under pretence of wanting wood and water, to come to New Haven River, where he unlivered great part of his loading, which was carried to New York, and, taking horses aboard, sailed with the remainder of his loading to Barbadoes; and also a vessel from Scotland imported a very great quantity of Scotch goods to New London about the year 1692.

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Colony of Plymouth.—The inhabitants are owners of the soil only. The first planters obtained a grant from the Great Council of Plymouth to settle upon that tract of land, and exercised government, but had no grant from the Crown so to do; therefore that Colony is annexed to his Majesty's government in the Massachusetts Bay in New England.

Rhode Island and Providence Plantation.—The government and soil thereof is holden by charter from King Charles II. Their Governor and Assistants are annually chosen.

Caleb Carr was the late Governor of Rhode Island and of a part of land upon the continent called Providence Plantation. It is become a free port to pirates and all illegal traders. Thomas Tew, a pirate, came thither from the Red Sea in the year 1694, and brought with him 100,000*l.* in gold and silver. He shared 12,000*l.* for himself and his sloop, and soon after went out to get more. He was followed by three or four vessels, which went out upon the same design. The inhabitants of the island and some merchants in Boston are great gainers by trading with them. The present managers of the Government are either Quakers or Anabaptists.

Province of the Massachusetts Bay.—The first inhabitants had a charter for soil and government. They enriched themselves by an open trade to all parts of Europe. His present Majesty in his late grant to them has reserved to himself the appointing the Governor, the Lieut.-Governor and Secretary of the Province; but, the people having the choice of the members of the Council, the chief whereof are illegal traders, his Majesty's Governor, when he arrives, can do little service in suppressing it. Mr. William Houghton is the present Lieut.-Governor of the Province, not bred up to military discipline. The country is daily exposed to the fury of the French and Indians, and cannot in the leastwise expect to be secure, for want of a Governor to defend them. But they have not, in their laws made since they are brought under his Majesty's immediate government, made any provision for his Majesty's Governor's maintenance, on purpose to discourage men of honour and abilities to live amongst them, and also to tire out his Majesty with the charge to maintain his own Governor for their own benefit. But, whatever it costs, that country and the lawful trade thereof ought speedily to be taken care of.

Province of New Hampshire.—Mr. Samuel Allen is the present Proprietor of that Province, and has a Commission from his Majesty to be the Governor of it. He purchased it of the heirs of Capt. John Mason, one of the members of the Great Council of Plymouth. He nominated Wm. Partridge (a millwright by trade) to be Lieut.-Governor in his absence. It is the only place from whence the great masts for the use of the Navy are brought. It was like to be lost the last year.

Province of Maine.—The Governor and Company of Massachusetts Bay in New England are the owners of the soil of that Province, purchased of the heir of Sir Ferdinando Gorges during the time they exercised a charter government. But since that Company is dissolved, the government reverts to his Majesty. The country and the people are most of them destroyed through the neglect and ill conduct of the owners of it.

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May it please your Lordships,

The chief end of granting those vast tracts of land, now called Proprieties, to noblemen and others was doubtless to encourage the first undertakers to plant and improve them for the benefit of the Crown, and to be always subject and depending on England, and conformable to the laws thereof. Great numbers of people are now settled in some of those Proprieties, but have been long endeavouring to break loose and set up for themselves, having no sort of regard to the Acts of Trade, and discountenancing appeals to his Majesty in Council. The persons appointed by the Proprieties to be their Governors are generally men of very indifferent qualifications for parts and estate; their maintenance is inconsiderable, which renders their governments precarious also. They have power only (like Civil Magistrates in petty Corporations) to make municipal laws, with consent of the people, for their quiet and peaceable living, as appears by Mr. Penn's Commission to the present Governor, [but are] accountable and always liable to be turned out at the pleasure of those who entrusted them; so that it cannot be presumed that the Proprietors' Governors are directed or any wise concerned to put in execution the several powers and trusts which by the Acts of Trade are reposed in the Governors of the Plantations depending on his Majesty's immediate authority; but [on] the contrary, I am humbly of opinion that it will be judged a high misdemeanour in any of them to attempt [to do so], until they become first qualified by Commission from his Majesty, as are the Governors of Virginia, New York, Barbadoes &c. (notwithstanding the Proprietors' grants). By which and by no other methods the many pirates, so long and so generally complained of to be harboured and countenanced in some of the Proprieties, and their piracies will be effectually suppressed, the Acts of Trade hitherto eluded will be vigorously executed, the officers of the Customs assisted and encouraged, and the inhabitants, being always secured in their properties, will be happy and secure from all spoil and rapine.

It is therefore humbly proposed that a Clause be brought in to invest the government of all the Proprieties in his Majesty, with a Saving to the owners and the inhabitants the properties to their lands and possessions, otherwise the Act for preventing Frauds &c. will be ineffectual against the Scotch Act; nor can there be any security against an enemy without a due concurrence of power to be invested in his Majesty, the Proprieties being independent one from the other. All which is humbly submitted by

Ed. Randolph.

Feb. 20, 1696–7.

Endorsed as read this day. Com. Book.

(o^1) $\frac{26}{27}$ Feb.—List of Mr. Randolph's witnesses, vizt. Edward Randolph, Richard Savage, John Taylor, Stephen Board, John Graves, Ebenezer Chaffin, Joseph Man, Mr. Wm. Nichols, and Peregrine Browne.

(p) 1 March.—Report from the Commissioners of the Customs to the Committee, touching Mr. Randolph, Surveyor-General of the Plantations, vizt.:—

May it please your Lordships,

In obedience to your Lordships' commands, signified to us by some of our number at their late attendance on your Lordships,

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requiring this Board to consider whether there is a present necessity of despatching Mr. Randolph to the Plantations, to put in execution the powers of the late Act of Parliament, or whether it be convenient to send away the new establishment of officers without him, we do humbly report to your Lordships our opinion that, although, by reason of some accidents that have happened, and some obstructions that have been given by the Proprietors of those Plantations that are under particular charters to some things endeavoured by this Board in pursuance of the said Act, the time thereby limited for the swearing the Governors is like to be elapsed before the same can be put in execution, for the lengthening of which time care will be taken in Parliament, as we hinted to your Lordships in our Report of the 16th inst; yet, in regard it has been thought necessary to form a new establishment of officers, to be settled in Virginia and other his Majesty's Plantations on the Continent and the Bahama Islands, for the better putting in execution the several laws relating to the Plantations, which officers (in regard there could not be that reasonable confidence in persons of interest and residence upon the place as in persons disinterested in and unrelated to the place) have been for the most part chosen from hence, and will be therefore new and unexperienced in the Plantations, it may be therefore necessary forthwith to despatch Mr. Randolph with them to the Plantations, who is the General Surveyor of that whole business, to dispose and settle them in their respective places, and to give them proper instructions, unless your Lordships shall think that his attendance here to give further information and light relating to the Plantation business during this Session of Parliament may more conduce to the public service.

Custom House, London,
22 Feb. 1696–7.

Robt. Clayton.
Walter Yonge.
Ben. Overton.
Ja. Chadwicke.
Sam. Clarke.

Endorsed as received 23 Feb. and read this day. Com. Book.

(*q.*) 1 March.—Bound papers delivered in this day by the Secretary of the Commissioners for Trade, as follows:—

(1.) Order upon the Presentment of the Commissioners of the Customs, at the Council Chamber at Whitehall, 13 Jan. 1695.

By the Right Honble. the Lords of a Committee of the whole Council—

Upon reading the Presentment of the Commissioners of the Customs upon two Memorials delivered to them by Edward Randolph, Surveyor-General of his Majesty's Customs upon the Northern Coasts of America, relating to the execution of the Acts of Trade and Navigation in those parts, which Presentment, together with the said Memorials, are referred to the Committee by his Majesty's Order in Council of the 9th of this inst. January; their Lordships are pleased to order the said Presentment and Memorials to be sent to the Lords Commissioners of the Treasury, who are desired to direct the Commissioners of the Customs to report their opinion thereupon, Article by Article, in writing, and to attend the Committee with the same at Whitehall on Friday the 17th of this inst. January at 5 o'clock in the afternoon; and their Lordships are further

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pleased to order Mr. Randolph to attend the Committee at the same time.

Signed Rich. Colinge.

Let the Commissioners of his Majesty's Customs take care that his Majesty's pleasure, signified in the above-written Order of Council, be duly complied with, so far as appertains unto them.

Whitehall, Treasury Chambers,
14 Jan. 1695. *Signed* Godolphin.
Ste. Fox.
Cha. Montague.
J. Smith.

(2.) Presentment of the Commissioners.

To the Right Honourable the Lords Commissioners of His Majesty's Treasury.

Presentment.

By the Commissioners for managing and causing to be levied and collected his Majesty's Customs, Subsidies, &c.

The Commissioners having formerly acquainted their Lordships, upon complaint of most of the principal merchants trading to Virginia and Maryland, that the trade is in a great measure destroyed and ruined by many ships trading directly from thence back to the said places, without paying his Majesty's duties, and prayed their Lordships to become a means that a vessel with a skilful and experienced commander might be appointed to cruise on the coasts of Virginia and Maryland, and moreover that some effectual remedy might be taken, by writing to the Government of Scotland, or otherwise as to his Majesty should seem meet, for preventing this great evil, tending to the diminution of his Majesty's revenue and the trade and navigation of this Kingdom, and Mr. Randolph, who is employed by their Lordships' authority as Surveyor-General on the North Coast of America, having, since his arrival in England, laid before the Commissioners his observation made in his travel from one Colony to another, with a list of several ships which by his great skill and industry hath been discovered by him to have traded between Scotland and the Plantations directly, and some with false cockets and certificates, which he hath likewise discovered and brought over, being now under the Commissioners' examination, they do humbly lay before their Lordships a copy of the said Mr. Randolph's paper, as a matter of great moment; and the Commissioners, being humbly apprehensive of this growing mischief, for that the trade between Scotland and the Plantations is now about to be more carried on under colour of a law lately passed in Scotland for a joint-stock to Africa and the Indies, wherein several merchants of England have interested themselves, they humbly pray that the same may be duly considered, according to the exigency of so important a case, and laid before his Majesty in Council, in order to some effectual remedy for suppressing such a trade from Scotland to the Plantations, tending so apparently to the ruin of this principal branch of the revenue, and the violation of the Acts of Trade and Navigation, which are the only security of the Plantation trade to and from this Kingdom.

Signed P. Ward. Robert Southwell.
Waltr. Young. Samuel Clarke.

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(3.) Mr. Randolph's Memorial No. 1 :—

To the Honourable the Commissioners of the Customs.

May it please your Honours—

In my paper of proposals to suppress the illegal trade in the Tobacco Plantations, which has been carried on from thence directly to Scotland for many years, I have shewn from whence it has so greatly prevailed, and laid down proper methods for preventing thereof for the future, a copy whereof is hereunto annexed, which will be effectually remedied if they were formed into an Act of Parliament to be passed this Session, and entitled an Act for preventing Frauds and regulating Abuses in the Plantation Trade, as is the Act of 14 Car. 2nd for England, and that the commanders of his Majesty's ships of war, during their stay in the country, may be ordered to receive instructions from this Board in what may concern the care of the trade and navigation to and from those Plantations, and to be aiding and assisting to the officers of his Majesty's Customs in the execution of their duties.

I now lay before your Honours an account of the present state of his Majesty's Colonies and Provinces upon the north coast of America, in relation to a Scotch Act which is lately passed; in which Act, under pretence of erecting an East India Company in that kingdom, they do (page 2nd) engage themselves with great sums of money in an American trade; a trade which has already for several years been carried on by Scotchmen, under pretence of being persons born within the allegiance of his Majesty, as by the Act of 12th Car. 2nd they claim liberty to do. And, although in the Act of the 14th of the same King only English, Irish and subjects in the Plantations are to be accounted English, as to the navigating of ships, yet they take on them to come from Scotland under the notion of supercargoes and merchants, and seldom fail of counterfeit masters.

In the 4th page they have liberty to plant colonies, &c., in or upon places not inhabited, and, page 5th, to make and conclude treaties of peace and commerce with the Governors and Proprietors, paying only to his Majesty out of Scotland the yearly acknowledgment of one hogshead of tobacco. And, although they forbid all other Scots than those of their Company to touch on any plantations which they shall acquire, on pain of confiscation, yet they allow all such Scots to trade in tobacco and sugar elsewhere (that is to say amongst the English), they paying for what they so bring home such duties as are now established in Scotland.

By all which it may be presumed how they project to let themselves into the trade of all his Majesty's Plantations, and it is probable they meditate either the purchasing a settlement in one of the three lower counties of Newcastle, Kent, or Sussex, on the southern shore of Delaware Bay, as being no part or parcel of the lands granted to Mr. Penn in his Province of Pennsylvania, or in some one or more islands near the Continent, by which expedient, if acquired, they might in a short time make a staple, not only of all sorts of European manufactures, but also of the enumerated plantation commodities, even as it is this day practised with great abuse at the small Dutch island of Carasaw [Curaçoa].

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Wherefore, for prevention of so great a mischief to England, it is humbly proposed :—

1. That the south part of Carolina and all the Bahama Islands be put under his Majesty's immediate authority.

2. That North Carolina be annexed and put under the care and inspection of his Majesty's Governor of Virginia, thereby to prevent the shipping of the merchantable tobacco growing in the southern part of that territory, by the inlets of Currituck and Roanoake.

3. That the three lower counties of Newcastle, Kent and Sussex, aforesaid, lying upon the southern shore of Delaware Bay, be annexed to his Majesty's government in Maryland, which will likewise prevent the shipping of merchantable tobacco growing at the head of Chesapeake Bay, near Bohemia and Sassafras Rivers, into Opaquimany River in Delaware Bay, as also the importing European goods by that passage to Maryland, both which evils have been but too much practised.

4. That the Province of West Jersey be annexed to the government of the Province of Pennsylvania, and an active Governor there appointed, such an one as is qualified to uphold the Act of Trade ; for, as things now hang, the charge to maintain able officers on both sides the Bay, from Bridlington in West Jersey to Horekill in Sussex county, nigh Cape Henlopen, with men and boats, &c., will not be defrayed for 800*l.* a year ; for, the trade of that river being now carried on by Scotchmen and privateers, inhabitants in Pennsylvania and East and West Jersey, which lie between Maryland and New York, in the very centre of trade and business, all is exposed and lies open to traders from all places, and cannot be secured but by a great charge or very regular government.

5. That the province of East Jersey be annexed to his Majesty's government in the Province of New York, as it hath been formerly. And in like manner the Colony of Connecticut, for this would wholly prevent the importation of European goods, too frequently made even by countenance of those two Colonies.

6. That the Colonies of Rhode Island, now under no regular government, be, as formerly, joined to his Majesty's government in the Province of the Massachusetts Bay in New England.

7. That no proprietor, planter, or other person whatsoever presume to alienate or transfer any island, plantation, &c., to any Scotch agent, factor or, other foreigner whatsoever, under the penalty of high treason ; the whole tract from 32° to 44° being his Majesty's dominion and annexed to the Crown of England.

But, forasmuch as several of the Plantations hereunder mentioned have proprietors and owners by Letters Patents, and some small Colonies are established by charters, where the persons concerned may not apprehend the danger that is threatened by the new law in Scotland, and so refuse to conform to what in that consideration only is hereby humbly proposed, as to the annexing of governments, yet in point of securing to England all the benefits of the Plantation trade to which by law they stand bound, I think, when any shall refuse in this time of danger to accept his Majesty's government, they should be obliged both to accept and maintain such officers as may be

needful to preserve the trade to England and the duties to his Majesty. 1696 7.

All which is humbly submitted by, No. 1115.

December 7th, 1695. ED. RANDOLPH, S.G.

(4.) Mr. Randolph's Memorial No. 2.

An account of several things whereby the illegal trade is encouraged in Virginia, Maryland and Pennsylvania, together with methods for prevention thereof, humbly offered to the consideration of the Honourable the Commissioners of his Majesty's Customs, by Edward Randolph, Surveyor-General, &c.

1. That naval officers, taking persons of small or no estates to be security for masters bound to England, Wales, &c., but carry their tobacco to Scotland directly, yet afterwards upon producing false certificates they discharge those forfeited bonds.
2. That general partiality of courts and juries, biassed by private interest, in causes relating to the Crown, of which some in Virginia and Pennsylvania are not legally quallified.
3. There is no penalty by law upon fob-masters, nor upon masters producing forged cockets and certificates to the Collectors in the Plantations, nor upon those persons who forge them.
4. The inhabitants of the eastern shore of Virginia, Maryland and Delaware River, Scotchmen and others, have great stocks lying by them, to purchase tobacco, and to prepare a loading ready to be put on board, upon the arrival of any vessel for New England, Ireland, &c., who assist with boats and sloops to get the goods ashore before the vessel is entered, which they dispose of amongst their goods in the store; the vessel lying in some obscure creek 40 or 50 miles distance from the Collector's office, and is, in a short time, loaded and sails out of the Capes undiscovered.
5. Collectors permitting vessels entered outwards to some other place than the Plantations, as Ireland, Newfoundland, &c., to trade in the Plantations, bringing no certificate that security is given in England.
6. Collectors permitting the natives of the Kingdom of Scotland, coming passengers from thence by way of Berwick, Whitehaven, &c., to the Plantations, with considerable quantities of goods, which, in a peddling manner, they dispose of, running in small boats from one river and creek to another.
7. Their not prosecuting masters upon forfeiture of their plantation bonds, nor vessels belonging to England, Ireland, or the subjects in the Plantations, upon the breach of the Acts of Trade, unless they come into the Plantation where the offence was committed.
8. Fob-masters not worth five pounds apiece, being Irish or subjects in the Plantations, sail vessels belonging to Scotch owners, and, upon their oath that they are such, are permitted to trade, especially if they can produce but a cocket from England.
9. The Collectors nor their deputies, going aboard vessels upon their districts, to examine whether the masters, the vessels and mariners are duly qualified.
10. Their suffering vessels belonging to New England, Barbadoes, &c., carrying bread, flour and other provisions in cask from Virginia, Maryland or Pennsylvania to the Plantations, to load in any river or creek, though 50 or 100 miles distant from their

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officer, by which means great quantities of cut and dried tobacco are packed up in cask and carried to the Plantations.

11. Governors of the Plantations permit privateers of all nations to be masters and owners of vessels, to trade at sea and enjoy all the privileges as his Majesty's subjects of England and the Plantations.

For prevention whereof it is humbly proposed:—

1. None of the enumerated Plantation commodities are to be exported out of the Plantations till bond be first given, &c., or certificate produced, &c., as by the 12th of King Charles the Second. And by the said Act the Governors of the Plantations are required to take an oath to observe the aforementioned clauses in that Act; but neither the Governor nor the persons whom they shall appoint are, by the 12th or the 15th of the same King, under any penalty if they take insufficient security. All Governors ought therefore to be under the same penalty of one thousand pounds and forfeiture, &c., for taking insufficient security, as by the said Act of the 15th of the King they are, upon entering upon their government before they have taken a solemn oath, &c.

Query.—Whether the Governors of proprieties have not incurred the penalties of that Act, for entering upon their governments before they have taken the oath [which] is [en] joined thereby?

2. That a Court of Exchequer be erected in all the Plantations on the coast of America to try all causes, criminal excepted, relating to the Crown; the Judges and Attorney-General to be appointed by his Majesty, one imparlance to be allowed only. Appeals to lie from that Court to the Governor and Council, and from them to his Majesty in Council, and the Court to take the officers bound to prosecute.

3. Fob-masters, and masters producing a false certificate to a Collector in the Plantations, to suffer twelve months' imprisonment, and the forger imprisonment during life; and, for discovery thereof, one list of certificates of vessels giving security in England, &c., to return to England, &c., only, and another list of vessels giving bond in the Plantations to go to England only, certifying the discharge of their loading accordingly, to be yearly sent to the Governor of that Plantation where they loaded by such person whom the Commissioners of his Majesty's Customs shall please to appoint, which lists shall be deemed and allowed of for good evidence in law by all persons concerned.

4. No master or mate, or other person belonging to any vessel coming to the Plantations, shall unlade any goods or merchandise whatsoever, before entry, &c., upon forfeiture of two hundred pounds sterling; and every inhabitant or foreigner that shall assist or take from on board such vessel any goods into any sloop, &c., until such entry first made, and the master have shewed a permit under the hand and seal of the officer, being informed against and apprehended by a warrant from a justice of peace in the Government where the offence was committed and convicted thereof, shall for the first offence lose the sloop, &c., and all the goods aboard or landed out of her, and pay the sum of ten pounds sterling; and for the second offence pay twenty pounds, &c.

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5. All vessels sailing from England, &c., to the Plantations to bring with them a printed certificate that bond is given in the port from whence they cleared, otherwise not to be permitted to trade under the penalty of to the Collector.
6. All Scotchmen, being agents and factors, coming by way of Whitehaven, &c., directly to the Plantations, bringing with them Scotch manufacture, or the product thereof, to purchase tobacco, to be accounted aliens, according to the Act made in the 12th of King Charles the Second.
7. All English, Irish, or subjects in the Plantations, being masters or mates of vessels, ought strictly to be prosecuted upon forfeiture of their plantation bond, that a copy thereof attested before the Governor in Council, under the Seal of the Government, shall be valid evidence against the offender in any Court in England, Ireland, or the Plantations, shall bar the prosecution of her upon testimony of the fact *vivâ voce*, taken before the Governor in Council under the Seal of the Government, which shall be sufficient proof to condemn her, being seized and prosecuted, in what place soever in his Majesty's dominions she shall be found, by such person as shall be thereunto appointed.
8. No English, Irish, or subjects in the Plantations to sail master or mate in any vessel belonging to the subjects in Scotland, upon any pretence whatsoever, upon forfeiture of the vessel and her lading, the one moiety to his Majesty, the other to the informer, if discovered in one year after the offence committed, or to such master or mate upon revealing and making known his offence to the Governor or to the Collector in the Plantation within twenty days after his arrival.
9. The Collector or his deputy to go aboard where there is ground of suspicion to view the build of the vessel; the master to give an account in writing of the names of all his owners, the place or places of their habitation, with the number and names of all his sailors, of what country, upon oath, and signed by him before witness. If afterwards he be convicted, to forfeit five hundred pounds, the one moiety, &c.
10. All vessels carrying tobacco or provisions in cask from Virginia. Maryland, or Pennsylvania to any other of his Majesty's Plantations, ought to have two ports only allowed to load and unload at in each Colony and Province, to be appointed by the respective Governor. The Collector or his deputy to be always present at the time of loading, upon penalty.
11. New England, Pennsylvania, South Carolina and other places abound with privateers, the pest of all trade. No privateer to be admitted by the Governor to enjoy any liberties or privileges in the Plantations until he has given sufficient security, not less than a thousand pounds sterling, to be taken and approved of by such person as his Majesty shall please to appoint, and thereupon to have liberty to reside, &c.

(5) Report of the Commissioners of the Customs upon Mr. Randolph's Memorials.

To the Right Honourable the Lords of a Committee of the whole Council.

May if please your Lordships,

Being commanded by your Lordships' Order of the 13th instant, which came to us from the Right Honourable the Lords of the Treasury on the 15th, to report our opinion on the two Memorials

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given in by Mr. Edward Randolph, in reference to the execution of the Acts of Trade and Navigation on the northern coast of America; We do humbly acquaint your Lordships, that one of the said Memorials is of two parts. First it sets down, in eleven instances, how and by what means the said Acts are eluded in Virginia, Maryland and Pennsylvania, and how illegal trade hath been encouraged, either by connivance of the officers there intrusted, or by partiality of courts and juries of the country, or by the frauds of those who counterfeit legal certificates, or by defects in the Acts themselves, which time hath discovered and by which many advantages are taken to his Majesty's hurt.

In the second part of the said Memorial there are eleven remedies proposed for the prevention of the said evils; And we humbly acquaint your Lordships that, upon our first perusal of these heads, which we presented to the Treasury on the 17th past, we saw the necessity of obtaining a new Act, and such as might reach several of the mischiefs and defects which are complained of, and which could not be cured but by law, as do appear on the 1st, 3rd, 4th, 5th, 6th, 7th, 8th, 9th and 10th of the said Articles; and the draft of such an Act lies now in Mr. Attorney General's hands to be considered of by him, and then to be re-examined at our Board, that all the points that are needful may be taken in before it be offered (as is intended) to the House of Commons for their approbation. But some of the remedies proposed appear to lie within the reach of his Majesty's authority, as where, in the 11th complaint, that the Governors of the Plantations permit privateers of all nations to be masters and owners of vessels to trade at sea, and to enjoy all privileges as his Majesty's subjects of England and the Plantations, and that in particular New England, Pennsylvania, South Carolina, and other places abound with such privateers, which are the pest of trade, we conceive his Majesty may command his own Governors, and require it also of the Proprietors, that no such liberties be granted to any privateer that doth not first give security of 1,000*l.*, to be approved of by his Majesty's officer of the Customs, for his good behaviour to the laws of trade, and before he have the privilege to reside. But, upon further discourse with Mr. Randolph, we apprehend that such as are here called privateers are rather freebooters, who break all the rules both of Admiralty and trade, and as such ought wholly to be suppressed. Also, we think on the second complaint of general partiality in the courts and juries, which are biassed by private interests in causes relating to the Crown, that his Majesty hath power to erect Courts of Exchequer in the Plantations for trial of causes that have reference to his Revenue, and to appoint the Officers thereof, and with such powers for this end as his Majesty's learned Counsel shall advise; whereof some are mentioned in the said Memorial. In the meantime we ourselves have written amply to all the Governors and to all our officers in those parts, by the ships now going, to excite their care and vigilance in the execution of all points which, by the laws now in being, they are bound to observe and maintain, and particularly with regard to the danger threatened by the late Act of Trade in Scotland, which we also enclose to them. But we presume not here to add any particular reflections on the said Act, inasmuch as the consideration of that great affair lies now before the Parliament.

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In the other Memorial there is first set forth, from several clauses in the said Scotch Act, what seems intended by the powers thereby obtained, and how dangerously they may operate on his Majesty's Islands and Plantations in America if not timely prevented.

The methods proposed by Mr. Randolph for this prevention are in seven articles. As first, in general, that some tracts of land on the continent, or islands adjacent, which have been granted to particular Proprietors, and where the abuses in trade have hitherto been most observed, should be put under his Majesty's immediate authority, as in the case of South Carolina and the Bahama Islands; but North Carolina to be put under the care of his Majesty's government of Virginia. That the two Jerseys, which are also in Proprietors, should be divided; the east part to be annexed to his Majesty's government of New York, the West part to the government of Pennsylvania, which is in propriety to Mr. Penn. That the three counties of Newcastle, Kent, and Sussex, which, we understand, are claimed also by the said Mr. Penn, be annexed to his Majesty's government of Maryland; for, though Maryland be the propriety of the Lord Baltimore, and his Lordship's profits are preserved unto him, yet his Majesty hath there appointed a Governor. That, besides the annexing the said east part of the Jerseys to his Majesty's said government of New York, there be added also thereto the Colony of Connecticut, which is a government by charter, and for Rhode Island which holds also by like charter, and to whom respectively his Majesty hath written letters, since his accession to the Crown, acknowledging them for Corporations, that this be annexed to the Crown of England.

As to the distribution of territories, we are humbly of opinion that Mr. Randolph hath well considered the situation of the respective parts, and how all the rivers and headlands of that coast might best fall under the inspection of particular governments.

And it is certain that this whole tract is subject to the Acts of Trade, and that his Majesty's dominion is over all. But, as we are not informed in the extents of those grants and powers which the Proprietors have obtained, or what they may allege herein if called upon, so must humbly submit the consideration and determination of this particular concern unto your Lordships' authority. Only thus far we conceive, that all Proprietors of the soil are so much tied up to the dominion of the Crown of England as they ought to defend the same at the peril of their lives, and may not alienate a foot to Scotch, or any other than subjects of England, but under the highest penalties. And, since also the Acts of Trade do extend and have their force in all that territory without distinction, it were most reasonable, in case more may not be had, that at least all Governors employed by the Proprietors should be sworn, as his Majesty's Governors are, to the observation of the said Acts, under the penalty of 1,000*l*.

And whereas, in the conclusion of the said Memorial, some doubt is made if the Proprietors would concur to what was proposed, and that in such case they might at least be obliged to accept and maintain such officers as were needful to preserve the trade to England and the duties to his Majesty, we are humbly of opinion that his Majesty's officers will best do their duty when wholly

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independent from any proprietors for their salaries and subsistence. And, as things now stand, we see a necessity to have many new officers employed, and such as by fit rewards may not be liable to the temptation or connivances which others have heretofore been guilty of. And we humbly offer, as is proposed in the said Memorials, that such commanders of his Majesty's ships of war as go at any time to those parts may be directed by the Admiralty to take some instructions from our Board to be aiding to our officers while they remain there, and for preserving our trade and navigation both out and home.

All which is humbly submitted to your Lordships' consideration.

Robt. Southwell.
Robt. Clayton.
Ja. Chadwick.
P. Ward.
Walter Yonge.
C. Godolphin.
Sam. Clarke.

Custom House,
London.
January the 17th, 1695–6.

(6.) Report of the Committee upon the Presentment of the Commissioners of the Customs about Mr. Randolph's Memorials.

At a Committee of the whole Council, at the Council Chamber at Whitehall, the 28th of January 1695–6.

The Lords of the Committee having, in pursuance of his Majesty's Order in Council of the 9th of this month, considered the presentment of the Commissioners of the Customs upon the Memorials of Mr. Randolph, Surveyor General of His Majesty's Customs upon the Northern Coast of America, relating to the execution of the Acts of Trade and Navigation in those parts, and having thereupon heard the Commissioners of the Customs, and received from them a further report before his Majesty in Council, and further to represent—

That, as to what is therein mentioned relating to the permission granted by the Governors in the Plantations to privateers of all nations, their Lordships are expecting the opinion of the Judge of the High Court of Admiralty, to whom the same is referred by the Committee, how such privateers may be proceeded against.

That, as to the complaint of the partiality in the Courts and Juries, which are biassed by private interest in causes relating to the Crown, for remedy whereof it is proposed that Courts of Exchequer may be erected by His Majesty in the Plantations, their Lordships have referred this matter to the consideration of Mr. Attorney for his opinion therein.

That, as to what is proposed in the said report in relation to the putting under his Majesty's immediate authority the several tracts of land in the continent, or islands adjoining, which have been granted to particular Proprietors, and where the abuses in trade have hitherto been most observed, their Lordships desire to receive His Majesty's pleasure whether the Committee may not inspect the several charters whereby those tracts of land, or the government thereof, have been granted by the Crown, and send for the said Proprietors to adjust with them the taking

such measures as are proposed in the said report, relating to the said Proprietors, for the more strict observation and execution of the Acts of Trade and Navigation.

And that a circular letter be sent by the Lords of the Council to the several Governors in the Plantations, requiring them, in his Majesty's name, strictly to pursue what hath been already proposed in the letters lately sent to them by the Commissioners of the Customs, relating to the better execution of the said Acts.

As also that such commanders of his Majesty's ships of war as go at any time to those parts may be directed to take some instructions from the Commissioners of the Customs to be aiding and assisting to their officers in the Plantations, and preserving the trade and navigation out and home, as is proposed by the Commissioners.

(7.) Reference of Mr. Randolph's Memorials to the Judge of the Admiralty.

At a Committee of the whole Council, Whitehall, the 28th January, 1695–6.

Upon reading a report from the Commissioners of the Customs, dated the 17th instant, upon a Memorial presented by Mr. Randolph in reference to the execution of the Acts of Trade and Navigation on the northern coast of America, their Lordships order that an extract of the said report, relating to the permission given to privateers of all nations by the Governors in the Plantations, be sent to Sir Charles Hedges, Knight, Judge of his Majesty's High Court of Admiralty, for his opinion whether the privateers therein mentioned may not be treated as pirates, or how they are otherwise to be proceeded with.

Richd. Colinge.

(8.) The Judge of the Admiralty's Report upon the foregoing reference.

May it please your Lordships,

In humble obedience to your Lordships' Order of the 28th January last, requiring my opinion whether the privateers, mentioned in the extract of a report from the Commissioners of the Customs upon Mr. Randolph's Memorial, may not be treated as pirates, or how they are otherwise to be proceeded with; I have considered thereof, and, having also received some further information from Mr. Randolph concerning the persons therein called privateers, I humbly conceive that they may be proceeded against and treated as pirates, they having, as I am imformed, no commission from any Prince or State, which I most humbly submit to your Lordships' great judgment.

C. Hedges.

February the 7th, 1695–6.

(9.) Report of the Committee relating to the Scots Acts.

Memdm., the 10th February, 1695-6.

The draft of the Report of the Committee upon the presentment of the Commissioners of the Customs relating to the Plantation trade being read, Mr. Attorney General, being present, was heard; whereupon their Lordships altered their Resolution from their first Report in the two clauses, as following:—

That, as to what is proposed in the said Report with relation to the putting under his Majesty's immediate authority the several tracts of land in the continent, or islands adjoining, which have been granted to particular Proprietors, and where the abuses in

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trade have hitherto been most observed, their Lordships having consulted Mr. Attorney General therein, it appears to the Committee that, by the several charters granted to the Proprietors for the said tracts of land, the powers of government have been also granted to them from the Crown; but their Lordships agree to move his Majesty that a circular letter be sent by the Lords of the Council to the several Governors in the Plantations, requiring them, in his Majesty's name, strictly to perform what hath been recommended to them by the Commissioners of the Customs, as in the letters they have now written, relating to the better execution of the Acts of Trade and Navigation of this Kingdom, and the preventing the inconveniencies that may arise from the Act lately passed in Scotland.

[Delivered in this day. Com. Book.]

(*r.*) 1 March.—Mr. Penn's Answer to Mr. Randolph touching the three lower counties, vizt. :—

1. The lower counties were granted to me in fee, upon advice of the best and ablest Counsel of England, with a design of government as well as soil. On these terms I solicited and received them, and without it would not have made my two years' expedition to America, the rest being very imperfect, if not impracticable, without their addition; and so it has been understood in K. Charles, K. James, and this King's time.
2. It is true that what tobacco grows with us is made there, but amounts not to, one year with another, above 600 or 700 hogsheads, which is but loading for a ship of ordinary bulk.
3. If tobacco be carried from Maryland to our side in fraud to the King, Edw. Randall [Randolph ?] ought to answer for that for suffering it; and if he can't, how can I ? The crime lies on the side of Maryland, where he chiefly resides; and there it is such practices should be stopped, and not that we should suffer for their neglects.
4. When it is on our side, there is a naval officer of his own appointment, and has been long, who ought to answer for it. For it were very hard that we should be security for officers of his putting in.
5. There is not any place upon both the bays where there is so little and so ill tobacco made as at and near the rivers of Bohemia and Opaquimany. Besides, the water carriage is so much cheaper on Maryland side, and the conveyance safer for such practices, that Edward Randall confesses 27 sail of ships have transgressed from Maryland, which he calls a King's government, and is more immediately under his own inspection, for 9 sail that went from our parts; and, if true, I dare affirm did not carry more tobacco than two of those from Maryland
6. As there is but one way alleged by E. Randall that any fraud can be committed, viz. from Bohemia river to Opaquimany on our side, so let it be considered that those bulky hogsheads must be brought 8 or 10 miles over land, in that only way, which I never heard was attempted but once and then discovered. Nor can there be an advantage proposed in doing of it, since one halfpenny per pound is all they can promise themselves for these following risks; first, the charge of land carriage; secondly, the hazard of being taken; thirdly, the rarity and difficulty of freight on our side, being ofttimes six months without shipping; fourthly, for the convenience of shipping, that makes our freight much dearer than from Maryland, which ofttimes obliges us to send our

growth to Virginia; lastly, we have no convoys, which fleets from Maryland and Virginia seldom go without. 1696-7.

For conclusion, in answer to his charge relating to the lower counties, we have made a law to prohibit the importation of tobacco into our Province upon the forfeiture of the whole, unless it pay the penny per pound to the King, according to the Acts of Navigation, which are carefully observed in that Province, which is made what it is by the estates and industry of a sober, honest people, and not by any indirect ways, as he basely suggests. Please to call Saml. Groome, Robt. Ruddle, Jeremiah Bass, Capt. Wild, Richard Hill. No. 1115.

Wm. Penn.

[Delivered in this day. Com. Book.]

(s.) 1 March.—Mr. Penn's Answer to Mr. Randolph's Paper relating to Pennsylvania, vizt.:—

1. I acknowledge Colonel Markham is my Deputy-Governor, a man without exception, or the Lords of the Privy Council would not have recommended him to the late Queen, as they did, for her approbation, and which she as readily complied with. He was Deputy-Governor to Colonel Fletcher, Governor of New York, while my Province was under his care, and therefore I conceive no fault in me to continue him.

2. That Patrick Robinson is a Scotchman and Secretary is true; but that he is by the laws of England capable of being so is as true; but he was not of my making, and, if the King think it improper, he shall be immediately removed by my next letters.

3. That David Floyd is called a Quaker and is the Attorney General is true, but that he is reputed an honest man and the ablest lawyer in that Province, and a zealous man for the Government, none that knows him will deny, he having often given such proof in cases wherein the interest of the Crown has been concerned.

4. For what concerns his reflection upon our Judges, they are honest and substantial men, one of them being worth fifty times the estate of the reflector.

5. For the two ships pretended to come from Scotland and Norway, I know nothing of them, and therefore crave time to answer it, though I believe not one word of the insinuation.

6. That the Governor favours pirates is both foul and false. Call Samuel Groome and Jeremy Bass, for they have the pass of the Governor of New York to reside or travel through our Province, who is the King's governor in that Province.

Lastly. That Colonel Markham desired the Collector's place can be no fault to the King that, I know of, nor to himself, if profitable. But, if his poverty be an objection, he shall be changed if the King pleases; but for that reason E. Randall ought not to be Surveyor of the Customs, who, I have reason to believe, is not worth five hundred pounds, if one, in the whole world. Please to call Saml. Groome, Counsellor Wharton, Jeremy Bass, both to Colonel Markham's diligence against Pirates and Edward Randall's greater sufficiencies.

Wm. Penn.

[Delivered in this day. Com. Book.]

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(*t.*) *Undated.* Paragraphs relating to the three Lower Counties, &c., and Pennsylvania, in answer to Mr. Penn's exceptions, vizt. :—

Paragraphs - - -	Breve of the 2 paragraphs relating to the
Three Lower Counties -	3 Lower Counties on Delaware Bay and Pennsylvania.
	Vouched by
Great quantities of tobacco are some years brought overland from Maryland to Delaware Bay.	Capt. Brown's paper; the letters of Capt. Dyer, Mr. Mein, and of Mr. Williams, officers of the Customs, produced by Mr. Savage* No. 1
. . And shipped directly for Scotland;	*Vide* abstract of the letters from Mr. Prowse, the Commissioners of the Customs' agent in Scotland, to Mr. Savage - - - No. 2
	* Mr. Nicoll informs of another way over land from Elk River to Newcastle, as also Joseph Man.
	Alexander Smart, Mathias D'Hart, and Righton's bonds not discharged. Joseph Armstrong, a Scotchman and a Quaker in London, part owner of Righton's vessel, Ebenezer Chaffin.
besides Gustavus Hamilton, the chief agent for the Scotch merchants in Glasgow.	*Vide* copy of Capt. Meeche's letter and journal to Col. Nicholson, and lists of Scotch merchants living in Glasgow and of Scotch merchants in London with whom they correspond - - - No. 3
Pirates are harboured there and purchase their provision in Philadelphia.	*Vide* letter from Thomas Lowry to Wm. Nicoll, which is vouched by Wm. Nicoll and Ebenezer Chaffin No. 3
Pennsylvania - - -	*Quer.* What Mr. Graves can inform of pirates there and in all other places.
Mr. Markham is the present Governor, to whom Samuel Carpenter and John Goodson (Quakers) are joined with him in the government, but refuse to act.	*Vide* his Commission from Mr. Penn, 24 December, 1694, directing that care be taken to suppress all vice and disorderly walking. Carpenter, a great merchant. Goodson, a surgeon - - - - No. 4
	Mr. Penn thought it not fit to entrust the civil affairs of his province to Mr. Markham (an infirm man) only, yet has the great confidence to recommend him to the Lords of the Council of Trade, as fit to be the sole Governor, to be approved of by his Majesty in all matters of trade and state, with the addition of being appointed Vice-Admiral also.

Patrick Robinson, a Scotchman, Secretary, and David Floyd, a Quaker, the country's Attorney-General.

Pleaded in another province, at the trial of a vessel from Scotland, against the prosecutor for his Majesty. *Vide* Capt. Meeche's journal and Webb's letter - No. 3

One vessel with goods from Scotland; another with wine, brandy, and European goods from Norway, having a Dutchman to be her master.

Vide Meeche's journal and Webb's letters - - - Ibid.

The Judges of the Courts of Judicature are not qualified according to law, neither can the officers of the Customs obtain justice for his Majesty.

Vide copies of the three trials, signed by the Clerks of the Courts in the 3 lower counties - No. 5

Mr. Nicholl can inform the unheard of injustice done between party and party in that province.

Vide Meeche's journal and Webb's letter - - - No. 3

Vide Mr. Markham's warrant to Mr. Clark - - - No. 5

The Governor is a favourer of pirates.

Vide list of pirates given me by Mr. Clark and Mr. Blake, at Chester in that Province, in February 1694 No. 5

Pennsylvania lies in the centre, between Maryland and New York, most conveniently for illegal trade.

Everett Johnson, master of the vessel which imported wine and brandy, &c., from Norway, was a Dutchman, and gone to New York when his vessel was seized. Journal No. 3

No justice to be had at her trial in Philadelphia.

Vide Robert Webb's letter No. 3

No place has, in so short a time, by such ways been so greatly improved.

By trade to Scotland, Curaçoa, and other prohibited places.

Vide Mr. Markham's warrant to Mr. Clark - - - No. 5

Addenda - - -

The goods were imported by Paris, a pirate, from Curaçoa, seized by Mr. Clark, tried and condemned by the Governor and Council, and appraised not at $\frac{1}{4}$ the value.

That Col. Nicholson was not the governor of Maryland when the tobacco was carried thence to Scotland.

He went over the Bay and seized the ship William and Mary from Scotland, Thomas Meeche, master. She was tried at Jamestown, and sailed, upon giving bond.

Vide Account of seizures in Maryland not prosecuted - No. 6*

* And by an Order of Council holden at St. Mary's in Maryland the 13th October 1694.

The trade from the Plantations to Scotland is greater than before the passing the Act for preventing frauds, &c.

Vide lists of vessels extracted out of Mr. Prowse's letters from Scotland examined by Mr. Board - No. 2

Ebenezer Chaffin, Joseph Armstrong, Meeche's journal - No. 3

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Naval officers take insufficient security for vessels loading tobacco for England, &c.

James Reid bound with Alexander Smart. Henry Vandeburg with Mathias D'Hart. John Feratt with John Walley. *Vide* Newcastle list of bonds - - - - No. 2

Joseph Man.

I have seized and prosecuted several vessels in Virginia, Maryland, and Pennsylvania.

Vide the lists of vessels seized and prosecuted - - - No. 6

And obtained judgment against Mathias D'Hart for 1,000*l.* sterling at New York.

Vide copy of the bond and the original judgment - - No. 6

Addenda.

That I wrote to Governor Markham to take more care of bonds and certificates.

Vide his letter to me March 1694 No. 4

That he discourages the officers of the Customs.

Vide Mr. Clark's and Mr. Blake's letters to me - - - No. 4

That, besides the tobacco carried to England and Scotland, great quantities are carried from Delaware to the Plantations yearly.

Vide copies of two lists, containing 78 vessels cleared from Delaware to the Plantations, by the Collectors of the Customs from the year 1686 to the year 1694 - - No. 2

☞ From whence it appears there is necessity of a Regulation made in Pennsylvania in the matter of trade, and acquits my masters, the Commissioners of the Customs, from the unjust reflection of misspending the treasure of the Kingdom to maintain their officers in the Province, where, as it is affirmed, there does not grow above seven or eight hundred hogsheads of tobacco yearly; but the illegal and very advantageous trade to the inhabitants cannot be suppressed until his Majesty be pleased to appoint a Governor for that end.

[Probably delivered in by Mr. Randolph 1 or 4 March.]

List of Ships loading tobacco in Pennsylvania for England, which do not appear to have delivered the same in England, Wales, or Berwick, as by their bonds they are obliged.

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(*u.*) 1 March.—List of Ships loading tobacco in Pennsylvania for Wales, or Berwick, as by their

Date.	Master's Name.	Ship's Name.	Whither bound.
1 Sept. 1688	Thomas Bond -	*Trial* - -	England - -
29 May 1689	James Hathaway -	*Trial*, of Pennsylvania.	Newcastle in England.
4 August 1690	Benjn. Roberts -	*Providence*, of Bridlington in West Jersey.	London - -
16 Oct. 1690	Tho. Manley -	*Planter's Adventure*, of Delaware.	Plymouth in England.
20 May 1691	Mathias De Hart -	*Unity*, of New York	Beaumaris in England.
May 1692	Maurice Trent -	Brigantine of Pennsylvania.	Whitehaven in England.
19 May 1692	Peter Trelony -	*Rose*, of New England.	Beaumaris in England.
26 May 1692	Peter Hawkins -	*George*, of New England.	Whitehaven in England.
2 June 1692	- - -	*Thomas & Mary*, of New England.	Curaçoa, a Dutch is- by Peter De Hare,
24 April 1693	Alexander Smart -	*Patience*, of Pennsylvania.	England - -
4 April 1693	John Walley -	*Lark*, of New England.	England - -
4 Aug. 1694	Matthew Estis -	*Dolphin* - -	England - -
17 Aug. 1694	Wm. Righton, Jun., of London.	Brigantine - -	England - -
1695	Gustavus Hamilton	Run out of Delaware Bay with 300 Hhds.	
20 March 1692	Abraham Gibson -	Ketch *Lily* - -	London - -

[Produced in Committee this day. Com. Book.]

England, which do not appear to have delivered the same in England, bonds they are obliged. 1696-7.

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Where she gave Bond.	Loading of Tobacco.	—
Newcastle in Delaware	79 Hhds., 2 barrels -	As appears by his bond in Mr. Markham's hands, dated 9 June 1688.
Newcastle in Delaware	147 Hhds. in casks, and 22,180 lbs. in bulk.	As per his bond in Mr. Markham's custody, dated 2 March 1689.
West Jersey - -	21 Hhds., 2 barrels & ½, and 8,000 lbs. in bulk.	As per abstract out of the Collector of Pennsylvania's books, 6 Aug. 1692.
Delaware - - -	24 Hhds., 50 bundles, and a parcel in bulk.	As by abstract out of Mr. Williams's Book.
Newcastle in Delaware	100 Hhds. - -	As per copy of his bond, dated 24 April, 3° Gul. & Mar.
Newcastle in Delaware	100 Hhds. - -	As per abstract out of Mr. Williams's book.
Newcastle in Delaware	100 Hhds. - -	As per forged certificate of bond given at Beaumaris, 4 August, 1691.
- - -	70 Hhds. - -	As per forged certificate from Whitchaven, 10 Aug. 1691.

land, and there delivered his tobacco, as informed at Newcastle, one of his sailors. —

Newcastle in Delaware	90 Hhds. - - -	As per his bond in Mr. Claypole's custody, Naval officer.
Newcastle in Delaware	90 Hhds. - - -	As per his bond in Mr. Claypole's hands.
Newcastle in Delaware	80 Hhds. - - -	As per his bond in Mr. Markham's custody.
Newcastle in Delaware	100 Hhds. - -	As per bond in Mr. Claypole's custody.

of Tobacco on board, not entered. —

Pennsylvania - -	79 Hhds., 80 lbs. in bulk, and 79 rolls.	As per his bond in Mr. Claypole's custody.

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(*v.*) 1 March.—Account of ships and vessels trading to and from Scotland to the tobacco Plantations, from 13 April 1695 to 29 December 1696, as appears by letters from Mr. Valentine Prowse, late agent in Scotland to the Commissioners of his Majesty's Customs in London.

13 April 1695.—The ship *Robert* of Erwin [Irvine], 120 tons, Francis Duncan master, from Scotland to Virginia.

29 May.—A ship of some force fitting out for Pennsylvania.

18 June. Mr. Perry.—A brigantine of Boston, 50 tons, Thos. Smith master, from Virginia to Scotland with tobacco.

22 July.—*William and Thomas* of Glasgow, 140 tons, Robert Kerry master, with tobacco from Virginia.

30 Sept.—*James and John* of Maryland, 120 tons, James Sinclair master, with Scotch goods to Maryland; and also a vessel belonging to Gustavus Hamilton from the Plantations.

17 Oct.—*James*, of Glasgow, 170 tons, Hugh Campbell master, and the *Elizabeth* of Queensferry, Robert Sinclair master - - } to Maryland.

1 Nov. and 29 March following.—*Rose*, of Maryland, 120 tons, John Coates, master, a Scotchman, and John Mackgoone, merchant or master - - - - - } to Maryland.

31 Dec.— { *Lamb*, of Glasgow, 100 tons - } with tobacco from Maryland.
{ *John*, of Glasgow, 140 tons - }

11 May 1696.—*Lion*. . . . 200 tons, George Lyon, with Irish goods for Maryland.

18 June.—*Barbara*, of Glasgow, 120 tons, Hugh Scott master, Scotch goods to Virginia; and the *Robert*, of Erwin [Irvine], 140 tons, ... master, Scotch goods to Maryland.

30 June.—*Elizabeth*, of Glasgow, 120 tons, Robert Sinclair, Scotch goods to Maryland.

25 Aug.—*Margaret*, of . . . . , 50 tons, Thomas Hunkins master, with tobacco for New England.

10 Sept.—*Elizabeth*, of Greenock, Robt. Sinclair, with Scotch goods to Virginia.

6 Oct.—*Margaret*, of New England, Thomas Hunkins, 50 tons, bound first from Scotland to New England, and from thence to Maryland, and the *Alexander*, of Greenock, Robert Johnson master (Steward being the reputed merchant in the Plantations), with tobacco from Patuxen in Maryland.

22 Oct.—*Mayflower*, of Boston, 50 tons, James Scott master, with tobacco from Maryland.

The *David*, of Largs, 60 tons, Robert Row master, from Virginia; and

The *James*, of Glasgow, 170 tons, John Lile master, for Maryland.

9 Nov.— Mr. Perry { *Charles*, of Glasgow, 70 tons, Robert Maclair master; and / The *John*, of Eyre [Ayr], David Ferguson master, 80 tons - } with tobacco from Maryland and Virginia.

9 Dec.—*Elizabeth*, of Glasgow, 100 tons, Robert Sinclair, with Scotch goods for Virginia.

29 Dec.—A brigantine, of Larne, 40 tons, Joseph Vallis master, from Maryland, and the *Alexander*, of Greenock, 200 tons, for Virginia.

Mem.—John Mackgoone loaded tobacco in Virginia, David Ferguson in Maryland.

[Probably produced in Committee this day.]

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(*w.*) 1 March.—Capt. Browne's Paper, as follows :—That in the year 1692 a Dutch ship from Amsterdam was in Delaware Bay. One Arnaldus Delagrange came in her, as I was informed, with betwcen £2,000 and £3,000 in goods, and transferred the same into Maryland, and sold the same at the house of one Capt. Nicholson, in Cecil county in Maryland, and purchased about, as I was informed, 1,000 hogsheads. Myself, keeping store in the aforesaid county, was much prejudiced by the said Arnaldus Delagrange, as I believe, by his unfair and unjust trade.

(signed) Peregrine Browne.

January the 13th, 1696–7.

[Delivered in this day. Com. Book].

(*x.*) 1 March 1696–7.—Several instances of an illegal trade and undue practices at Pennsylvania, Carolina, and East and West Jerseys, abstracted out of the several letters to the Commissioners of his Majesty's Customs, vizt. :—

Carolina.—Copies of certain presentments from the Commissioners of the Customs to the Lords of the Treasury since the year 1678, complaining of misdemeanours and disorders and the obstruction given the officers in Carolina.

Pennsylvania.—Letter of the 27 July 1685, from Mr. Dyre, complaining that several vessels carried away tobacco and imported goods illegally.

East Jersey.—The said Dyre, in his letter of the 30th June 1685, complains of an illegal trade and of injustice in the Courts, being imprisoned and damages given against him.

East Jersey.—Mr. Mein, in his letter of 31 Aug. 1686, informs of many prohibited goods imported at East Jersey, the Governor being a Scotchman.

Carolina.—Mr. Muschamp, in his letter of the 11 April 1687, informs of his having a trial wherein he was cast, it being pretended that their charter gives them liberty of trading with Scotland and Ireland.

Pennsylvania.—Mr. Mein, in his letter of the 30 May 1687, complains that the officers could have no assistance from the Government of Pennsylvania.

Carolina.—Francis Noble, in the year 1687, complains of an illegal trade there, and of the partiality of their Courts and Jury and great discouragements put upon him in doing his duty.

Pennsylvania.—James Walliam, in his letter of the 28 June 1689, informs of the mean value of tobacco ; that there were then several thousand hogsheads of tobacco in Pennsylvania and the territories thereof. Informs of his seizure of goods brought to Pennsylvania by Frenchmen, who obtained a special court, where he was forced to trial, and by the jury cast with costs of suit, without the benefit of appeal. Informs also of two vessels gone from thence without clearing.

West Jersey.—Edward Huntoke, in his letter of the 26 November 1695, informs of a ship arrived at West Jersey with prohibited goods from Scotland, which was cleared on security.

Pennsylvania.—Thomas Meeche, in his letter of the 24 September 1695, to Governor Nicholson at Maryland, complains of injustice at the Court in Delaware, and of his Majesty's being defrauded of his dues there.

West Jersey.—The said Thomas Meeche, in his letter of the 10 November 1695 to the said Governor Nicholson, complains of Governor Hamilton, who sat judge in the Court of Common

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Pleas at Burlington in West Jersey, denied a sworn jury for the trial of a vessel which brought goods from Scotland with false cockets, denying the said Meeche's power and taking it out of his hands. Informs of 300 hogsheads of tobacco carried from Pennsylvania for Scotland.

Pennsylvania, West Jersey.—The said Meeche, in his journal of the 30 November 1695, informs of an illegal trade, and the great discouragement he met with at Pennsylvania, not having justice done him there nor in West Jersey.

Carolina.—Peter Jacob Guerard, in his letter of the 21 May 1696, informs of his seizure of a vessel from New York for being unduly navigated, and that the judge would not enter judgment, but removed the matter before the Governor and Council, who took security and discharged the said vessel, to the said Guerard's discouragement, adding that the Governor doth obstruct and perplex all persons employed by the Commissioners.

Pennsylvania and Scotland.—Two letters of the 5th July and 2nd August 1696 from Mr. Prowse, Agent in Scotland, inform of a ship arrived there from Pennsylvania, and of another ship sailed from Scotland for Pennsylvania.

[Delivered in this day. Com. Book.]

(*y.*) 1 March.—Copy of the Act made by Mr. Nicholson, vizt.:—

In Maryland.

An Act made in Annapolis, Anno 1695, intituled An Act imposing the duty of ten per centum upon all European commodities exported out of this Province.

Be it Enacted by the King's Most Excellent Majesty, by and with the advice and consent of this present General Assembly, and by the authority of the same, That, from and after the end of the present Assembly, all goods, wares, and merchandize, of the growth and production or manufacture of Europe, which shall be imported into this province and exported again out of the same, shall before such exportation be duly and fairly entered with the naval officer within whose district the same shall happen to be shipped off or exported, and shall pay to the said naval officer, or give good caution for the payment of the same, [the] sum of ten pounds for every hundred pounds value of goods and merchandize, according to the true and real invoice thereof sent out of England, or, in default thereof, according to the real and intrinsic value thereof in this province, so to be exported, and so after the same rate for a greater or lesser quantity of goods, except that the goods, wares, and merchandize of Europe be the proper goods of any of the good people or inhabitants of this province, and by them exported out of this province, *bonâ fide*, without fraud; provided always that any such person or persons, inhabitants of this province, that shall at any time hereafter export out of this province any of the goods, wares and merchandize of Europe, do, before his or their shipping off of such commodities aforesaid, make oath upon the Holy Evangelists that such goods and merchandize so by him or them shipped off to be exported or to be any ways carried out of this province either by land or by water are the proper goods, wares and merchandize of him or them that shall export or carry away the same; and that the same oath shall be taken before the naval officer of such district, who hath full power and authority given unto him by this Act to take and exact the same in the form following, viz.—I, A.B., do swear that the

several goods and merchandize which I have now entered with the naval officer are by me intended to be exported out of this province upon my own proper risk and adventure, and that the same goods and merchandize are my own proper goods, and that no other person or persons whatsoever have any interest or right in the same; but the same is by me entered and exported *bonâ fide* without fraud, covin, or any deceit, but according to the true meaning and intention of the Act of Assembly in that behalf made. So help me God.

And be it enacted by the authority aforesaid, by and with the advice and consent aforesaid, that all masters of ships or other vessels coming into this province, or into any of the ports, rivers, creeks, or harbours thereof, with their said ships or other vessels, shall, at his or their entry of such ships or vessels with the naval officer in that district wherein such entry shall be made, make oath before the said naval officer whether he has imported any goods, wares, or merchandize in his ship or vessel into this province which are to be exported out of this province, and which were shipped on board his ship for Pennsylvania or any other parts.

And be it enacted further, by the authority aforesaid, and by and with the consent and advice aforesaid, that all and every person or persons whatsoever, as well the inhabitants of this province as others, that shall export or carry out of this province, either by land or water, any goods, wares, or merchandize of the growth and production or manufacture of Europe that shall be imported into this province, and shall not, before his or their shipping off or carrying away of the same, make a fair and legal entry thereof with the naval officer of such district where the same goods and merchandize shall happen to be shipped off or carried away out of this province, either by land or water, *bonâ fide*, without fraud, according to the true meaning and intent of this Act, and, in case that such transporter or transporters of the wares or commodities aforesaid are not any of the inhabitants or good people of this province, shall pay or cause to be paid to his sacred Majesty or his successors, to the use in this present Act hereafter mentioned, the several rates and duties before in this Act set forth and expressed, that is to say, the sum of ten pounds for the value of every hundred pounds, according to the true and real invoice thereof sent out of England, and, in default thereof, according to the real and intrinsic value thereof in this province, and so proportionable for a greater or lesser sum, shall forfeit all such goods, wares, and merchandize, or the full value thereof, so shipped off or carried away, or which shall be attempted to be shipped off or carried away, either by land or water, out of this province, and not duly and fairly entered with the naval officer, and the duty thereof paid according to the true meaning of this Act, except as is before excepted, the one half to our Sovereign Lord the King or his successors for the use of this province, the other half thereof to the informer, or him or them that shall seize, sue, or inform for the same, to be recovered in any Court of Record within this province, wherein no essoin, protection, or wager at law to be allowed. Provided always that it shall and may be lawful to all such ships or vessels, coming into and trading in Potomac river, to transport their goods and merchandize from one side of the said river to the other, as they shall think fit, without paying the duty aforesaid in this Act

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contained, and not elsewhere, they making due entry thereof as aforesaid, anything in this Act before mentioned to the contrary notwithstanding.

And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid, that the several naval officers of the several and respective restricts [districts] within this province shall yearly, and every year during the continuation of this Act, account for and pay to the public treasurers of this province for the time being all such sum or sums of money as shall be by him or them collected and gathered by force and virtue of this Act. And the said treasurers are hereby enjoined to render their accounts thereof to the General Assembly of this province, to be by them disposed of to such uses, ends and purposes, for the public good and utility of the same, as to them shall seem meet and convenient.

And be it further enacted, by the authority aforesaid, and by and with the advice and consent aforesaid, that every naval officer [who] shall make such entries as aforesaid shall, for every such entry by him or them made, have, demand, and receive of such person or persons that shall require such entries to be made the sum of two shillings and sixpence sterling, and no more. This Act to endure and continue for three years, or to the end of the next General Assembly, which shall first happen.

[Delivered in this day. Com. Book.]

(*z.*) 4 March 1696–7.—Copy of an Act made by Governor Nicholson in Maryland, delivered in by Mr. Penn, as follows:—

In Maryland.

An Act made at Annapolis, Anno 1695, intituled an Act for the imposition of four pence per gallon on liquors imported into this Province.

For raising money for building and repairing Court-houses, free schools, Bridewells, and such public services, it is by this present General Assembly thought that no greater expedient can be found than by assessing an imposition of fourpence per gallon on all such liquors as shall be imported into this province (liquors from England only excepted); wherefore we, your Majesty's most dutiful and loyal subjects, the delegates and burgesses of this present General Assembly, do humbly pray that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of this present General Assembly and by the authority of the same, that, from and after the publication hereof, all masters of ships and other vessels that shall import any liquors into this province shall pay unto his Majesty's naval officers for the time being, for the use of this province, the sum of fourpence per gallon for all and every gallon of liquor imported into this province as aforesaid.

And be it enacted, by the authority aforesaid, by and with the advice and consent aforesaid, that all ships or other vessels which are built in this province before the making of the former Act of Assembly, intituled an Act for the imposition of fourpence per gallon on liquors imported into this province, and which are wholly and solely belonging to the inhabitants thereof, shall pay to his Majesty's naval officers for the time being the sum of twopence per gallon for every gallon of liquor that shall be by them imported into this province, and no more (liquors from England excepted) and all ships and other vessels,

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which have [been], since the making of the aforesaid Act, or whieh shall at any time hereafter be, built by and wholly and solely belong to, the good people the inhabitants of this province, shall be wholly exempted and acquitted from paying the impost of fourpenee per gallon as aforesaid.

And whereas this present General Assembly do find that the money of this provinee is most, or the greatest part thereof, eonveyed into Pennsylvania to purchase beer, rum, or other liquors, to the great discouragement of husbandry and tillage in this province, Be it likewise enacted by the authority aforesaid, by and with the adviee and consent aforesaid, that all persons importing beer or other liquors from Pennsylvania into this provinee by land (except what is hereafter in this Act excepted) shall pay unto his Majesty's naval officers for the time being the sum of six penee per gallon for all beer, and the sum of nine penee per gallon for rum, wine, and other liquors, imported or brought into this province by land from Pennsylvania as aforesaid.

Provided always, and it is hereby declared, that this Act, nor anything therein eontained, shall extend to the eharging any liquors whatsoever imported by water into this provinec from Pennsylvania or any other place with more than the imposition of four pence per gallon hereby before imposed, all whieh duties, arising by sueh imposition of liquors as aforesaid, shall be eolleeted and gathered by his Majesty's naval officers in their several and respective distriets, for which they shall have for their salary 8*l.* in the hundred and no more.

And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid, that no such liquors upon which the duty aforesaid is assessed shall be landed or put on shore out of any ship or other vessel whieh shall import the same, or any other, without due entry thereof made with the officer hereby appointed, upon oath of the person or persons importing the said liquors, for eollecting the same, in the port or place where the said liquors shall happen to be imported as aforesaid, or before the duty due and payable for the same be satisfied or seeured to be satisfied, and a warrant for the landing thereof be signed by the officer for that purpose appointed, upon pain and peril that all such liquors landed and put on shore eontrary to the true intent and meaning of this Act shall be forfeited and lost, or the full value thereof, one-half to his Majesty or his successors for the use of the free schools of this province, and the other half thereof to the vestry of each parish where sueh goods shall be landed eontrary to this law, to be recovered in any of his Majesty's Courts of Reeord within this province by action of debt, bill, plaint, or information, wherein no essoin, proteetion, or wager of law shall be allowed, to be recovered of proprietors, true owners, or importers thereof.

And, for the better encouragement of all masters, merehants, owners, and other persons whatsoever to make due entry and payment of the duties, rates, and impost raised by this Act, in eonsideration of leakage and all other damages, the said officer is hereby authorised and empowered to make allowance of abatement of twenty gallons in each hundred gallons of all liquors so to be duly entered as aforesaid, and the said offieers hereby appointed for eolleeting and gathering the duties aforesaid shall [be], and are hereby empowered, upon suspicion

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of any fraud or deceit of any importer, owner, or proprietor of any such liquors concealing and not making due entry of the same, to go and enter on board any ship or vessel, or into any house or warehouse on shore, and from thence to seize, bring on shore, or secure all such liquors for which the duties aforesaid are not duly paid or secured to be paid as aforesaid, and that the said officers and their deputies may freely stay and remain on board until the goods are delivered and discharged out of the said ship or other vessel, and all officers, as well military as civil, of this province, and all captains and officers of ships, are hereby required and enjoined to be aiding and assisting to such naval officers in discharge of their duty aforesaid, for all which the said officers and others assisting them shall be saved and kept harmless by virtue of this Act.

And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid, that all such naval officers shall give good security to the Governor of this province for the time being and shall take their several oaths well and faithfully to gather the same impost so arising, and a just and faithful account once a year thereof to give and render to the public treasurers of this province for the time being authorised for the receiving of the said impost, for which they shall have for their salary 4*l.* per cent., who are to be answerable and give good bond for the same to be accountable, and render an account to the next meeting of Assembly, who shall have the ordering and disposing of the same, except what shall be disposed by this present General Assembly.

And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid, that every master of a ship or other vessel, at the time of his entry of such ship or vessel, wherein such liquors shall be imported as aforesaid, shall render upon oath an account of the quality and quantity of such liquors aforesaid, and that the several respective naval officers within this province for the time being shall, at the time of their entering such ships and vessels as aforesaid, take good and sufficient security in his Majesty's name for the payment of the imposition aforesaid, to such uses and purposes, and in such manner and form, as by this Act is appointed, and that all persons importing any liquors by land from Pennsylvania, and not making due entry thereof, or concealing the duty hereby imposed, shall be subject to the same pains and penalties as for not making due entry or concealing any liquors imported into this province by water as aforesaid.

And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid, that one Act of Assembly of this province heretofore made, intituled An Act for the imposition of fourpence per gallon on liquors imported into this province, and every branch thereof, be and the same is hereby repealed. This Act to endure for three years, or to the end of the next Assembly, which shall first happen. *Endorsed* as delivered in by Mr. Penn this day. Com. Book.

(*aa*) 4 March. Mr. Penn's Proposal for the advancement of trade in America. The English Empire in America taking in all those latitudes of Europe which furnish us with foreign commodities that are either so necessary or agreeable to us, we may, as I humbly conceive, raise them, if due methods were taken for it in our own Colonies, as pitch, tar, deals, masts, hemp,

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flax, iron, potashes, silk, wine, oil, fruit, gums, drugs, copper &c. That such a design is practicable New England and the neighbouring colonies have given us a proof, for pitch, tar, deals, masts, hemp, and flax may be plentifully raised on that continent, and which, for aught I hear, fall not short in goodness of those we have from the Baltic; about which proposals have several times been made, and do, I suppose, now lie before the Lords Commissioners for Trade and Plantations. Good wine has been made as far north-east as the Narragansett Country in Pennsylvania; both Germans and French make wine yearly, white and red, but not in quantity for export. For silk, Virginia gave a sufficient proof in the time of Sir Wm. Bartlett; King Charles II. wore of it. Oil may be produced there, and both doubtless in Carolina to perfection, that being yet more to the southward, as also all those fruits that come from the Straits. For gums and drugs, all the Colonies produce them in good quantities, also potashes to be made upon the continent. But to produce these commodities in fitting quantities three things are requisite: First, hands; secondly, time before duty be imposed; thirdly, a better discipline in general. We cannot have hands enough at reasonable rates without more encouragement to foreigners, which the late Act of Parliament makes more difficult to get than before; for, instead of advantaging ourselves by the labour of strangers in the Plantations, it suffers none but English to go thither without leave under the Privy Seal, which deserves consideration, since they have now but hands sufficient to raise the present produce of tobacco and sugar, and to feed themselves and the southern Plantations, and they will not be diverted to other things, nor is it fit they should. If there be peace, that part of the army which is disbanded will be well employed in such commodities. For those commodities we fetch from the Baltic, there are in and about New England those that understand their make, so that, if they had some more hands, they would be easily and speedily raised. The French refugees are most skilful in silk, wine, and fruit, and, if sufficiently encouraged, would with a suitable number of hands answer that point. 2. The next thing is time, and that may be made an encouragement to undertakers, if the Government will take care of what is made for seven years at a certain price, and no Custom or duty payable for that time, and more duty laid upon the same commodities of foreign growth and manufacture. 3. Discipline, which is chiefly wanted and would most of all contribute to the advancement of the Colonies, and what I take to be an artificial virtue, for without industry there can be no improvement, and where discipline is loose, industry must fall, of which we have in almost all the Colonies but too plain proof; for, by the study of private gain in officers, and the too great indulgence of licentiousness in the people, very mean improvements have been made in divers parts belonging to the Crown in America, insomuch that the common people live but from hand to mouth, are poor, shabby, and debauched, ill examples to the natives, little comfort to themselves, and not half the benefit they might be to the Colonies and the Crown; all which may be helped by a better discipline, that neither oppresses on the one hand nor indulges licentiousness on the other, but encourages the people in sobriety and industry.

For the prevention of frauds from the tobacco Colonies to the King

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and Kingdom, it is humbly offered that all masters of ships should not only, in their account of loading, give the number of their hogsheads, but also the several marks those hogsheads have, because cured and packed by several planters, and consigned to divers hands, and consequently differently marked; also that there be three contents, clearings and cockets of each ship, one to come by the ship itself, and the other two to be sent to the Commissioners of the Customs by such conveyance as the King's Officer shall think most safe, together with a copy of the certificate which he received from such master, as given to the said master by the Commissioners at his clearing out from England.

Lastly, that the master be bound to the Government, as well as the owners, to forfeit 500*l.* if faulty in navigating to any ports but according to law.

Conclusion. For a better correspondence and commerce among the King's provinces upon the Continent, and for the government of the northern tract of America, where the people are planted at great distance one from another, I humbly offer that the King would be pleased to recommend to them their annual meeting by deputies, who best knowing their own and one another's circumstances, they may adjust all matters in pursuance of such directions to a common benefit. [Read this day. Com. Book.]

(*bb*) 8 March 1696–7.—Report from the Commissioners of the Customs to the Right Honble. the Lords Committees of Trade &c., as follows:—

May it please your Lordships,

In obedience to your Lordships' commands, signified to us by your Order of the 4th instant, we do herewith humbly lay before your Lordships copy of the Instructions which we have prepared for the officers now going to the Plantations in America, and likewise copies of the Instructions which have been given to the Governors in the said Plantations in relation to trade.

Custom House, London,
March 1696–7.

Robert Southwell.
C. Godolphin.
Walter Yonge.
Sam Clarke.
Ben. Overton.

Endorsed as read this day. Com. Book.

(*bb*[1].) 8 March.—Instructions prepared by the Commissioners of the Customs for the officers they are about to send to the Plantations in America, as follows:—

Instructions by the Commissioners for managing and causing to be levied and collected his Majesty's Customs, Subsidies, and other duties in England to , Collector of all the rates, duties and impositions arising and growing due to his Majesty at , by an Act of Parliament made in the 25th year of the reign of King Charles II., intituled An Act for the encouragement of the Greenland and Eastland trades, and for better securing the Plantation trade.

First.*—Whereas by virtue of the said Act, in pursuance of the authority and direction to us given by the Right Honble. the

* Note in margin: The 12 following Articles are agreeable to the Standing Instructions which have been formerly given by the Commissioners of the Customs to the officers in the Plantations.

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Lords Commissioners of his Majesty's Treasury, we have deputed you to be Collector of all the rates, duties, and impositions payable to his Majesty at , you are, by the best ways and means you can, to levy and collect the same according to the tenor of the said Act. And, because they are thereby appointed to be collected under such penalties, both to the officers and upon the goods, as for non-payment of or defrauding his Majesty of his Customs in England, we do herewith send you a Book of Rates, wherein are contained the principal laws relating to the management of the Customs in England and the Plantation trade, vizt.—The Act of Tonnage and Poundage, the Act for the encouraging and increasing of shipping and navigation, the Act for preventing Frauds and regulating Abuses in the Customs, the Act for encouragement of trade, the Act for regulating the Plantation trade, and the aforesaid Act for the encouragement of the Eastland and Greenland trade and better securing the Plantation trade. And you are to conform yourself by the several Rules for managing the Customs in England, according to the said laws, in all things wherein the same are practicable with you, and to inform us, or the Commissioners of his Majesty's Customs in England for the time being, what further powers and authorities may be necessary for the carrying on his Majesty's service.

2. You are, before you enter upon this employment, to give bond to his Majesty's use, with one or more sufficient sureties, in the sum of 500*l.*, for the due performance of the same; and you are also to take the usual oath before your Governor for the true and faithful discharge of the said employment.

3. You are to take care that all ships and vessels, which by law may trade in the Plantations, that shall come to to ship or take on board any of the enumerated Plantation goods [In margin: Sugar, tobacco, cotton-wool, indigo, ginger, log-wood, fustick and other dyeing wood, cocoa nuts], which shall not first have given bond to go to England, Wales, or Berwick, and to no other place, do, before they take in any part of their respective ladings, make entry with you, vizt.: the name of the ship, and master and burthen of the ship, and to what place bound, and that, before clearing, the masters do upon oath make report of the contents of their ladings, both as to quantity and quality, to the best of their knowledge, with the names of the merchants; and, if any ship shall take in any goods chargeable with the duties aforesaid before such entry made, the master thereof is liable to the penalty of 100*l.*, according to the Act for preventing Frauds and the Statute 1 Eliz. cap. 1, contained also in the aforesaid Book of Rates.

4. And, in case any such ship shall take in any goods chargeable with the duties imposed by the aforesaid Act before the duty be paid or agreed for with you, or shall take in any greater quantity of goods than that for which the duty shall be so paid or agreed for, you are to make seizure thereof and proceed against the same according to law.

5. You are to keep exact account of all moneys by you received, or goods in lieu thereof, and to make perfect entries thereof in a book or books to be kept for that purpose, containing the particulars of all the goods, with the names of the respective persons entering the same, together with the ship's name and master's name, the burthen of each ship, and to what place or places bound, taking

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especial care to inform yourself rightly of the true names of the vessels and their masters, because many fallacies have been committed and frauds practised by changing their names and obtruding fictitious names.

6. You are to use your utmost endeavour to collect the aforesaid duties * in money and not in goods, and what of necessity you must take in goods you must endeavour to sell to the best advantage, remitting the money by good Bills of Exchange to the Receiver-General and Cashier of his Majesty's Customs in England for the time being residing in London; and you are to send duplicates of all such Bills of Exchange to us or the Commissioners of the Customs in England for the time being; and such goods as you cannot dispose of you are to ship at the best conveniences and cheapest rates, and consign them to his Majesty's warehouse-keeper at the Custom-house in London for the time being.

7. And, because there is no duty imposed by the aforesaid Act, made in the 25th year of the reign of King Charles II., upon the enumerated goods laden on such ships for which bonds shall before lading be given to go to England, Wales, or Berwick, and to no other place, you are to take especial care that none of the said goods, which shall be pretended for any of the shipping bound to England, Wales, or Berwick only, be under that colour stolen on board ships bound elsewhere, and so evade the duties chargeable by this Act; to which end it will be necessary, not only that the Comptroller or Surveyor do frequently visit all ships and vessels that have not given bond as aforesaid to go to England, Wales, or Berwick, and to no other place, but also, where you find it necessary, that you put men on board such ships to take an account of all the goods laden on board them, which account the said Comptroller or Surveyor, before clearing any such ship out of port or harbour, is to compare with the entries and warrants, and, if any of the said enumerated goods shall be found on board for which there are no warrants as aforesaid, you or they are to seize and prosecute the same according to law.

8. You are at the end of every twelve months to make up a general account of the whole management of this business, which is to be attested by the Comptroller or Surveyor and by the first opportunity of shipping sent to us, together with your account current, and the balance of the whole account, either in money, bills, or goods, directed and consigned as aforesaid, and duplicates thereof by some other ship for fear of miscarriage.

9. And, for the further advantage of his Majesty's service and revenue of Customs in this Kingdom, you are to take care that the laws relating to the Plantation trade, as to so much thereof as is to be performed in , be put in effectual execution, particularly for all ships or vessels that shall arrive with you from this Kingdom, the dominion of Wales, or town of Berwick-upon-Tweed, [and] that certificates be produced to your Governor, or such as he appoints to receive the same, from some Custom-house of England, Wales, or Berwick, under the hands of four or more of us, or the Commissioners of the

* Memorandum in margin :—Those duties in Virginia and Maryland are granted by Charter from King William and the late Queen, bearing date 8 Feb. in the 4th year of their reign, for erecting and maintaining a free school and college in Virginia.

Customs in England for the time being, as also under the hands and seals of the Customer and Comptroller, or their deputies, and the hands of the Commission Collector in each respective port, that such ships or vessels have there given bond according to law. And, for such ships and vessels as shall arrive with you from any other ports or places, which are by law permitted to trade in his Majesty's Plantations, you are to take care that bond be given with one sufficient surety to your Governor, or the person appointed by him to receive the same, according to law, and if, contrary thereunto, any ship or vessel shall lade any of the said enumerated commodities before such certificate produced or bond given as aforesaid, you are to seize and prosecute such ship or vessel according to law.

And you are not to permit any ship or vessel to trade upon any certificate of bond given in Ireland, but in that case, before you suffer her to lade any of the enumerated goods, the master is to give bond with one sufficient surety to your Governor or the person appointed to receive the same as aforesaid. And, although by the Act of Navigation the word Ireland is inserted, in the condition of the bond, with England, Wales, or Berwick, and permission thereby given to bring the Plantation commodities to Ireland as well as to England, Wales, or Berwick, yet by the Act for regulating the Plantation trade (which, being expired, was afterwards revived, and is still in force) the word Ireland is repealed, and the condition of all such bonds must be to bring their respective ladings to England, Wales, or Berwick only.

10. Furthermore, you are to inform yourself whether any of the commodities of the growth, production, or manufacture of Europe are imported to , other than such as shall be brought directly from this Kingdom, the dominion of Wales, or town of Berwick-upon-Tweed, and in such shipping and so navigated as is directed in the aforesaid Act for the encouragement of trade, except wines laden in the Madeiras or Western Islands or Azores, of the growth of either of them, servants or horses shipped or laden in Scotland and Ireland, and all sorts of victuals shipped or laden in Scotland or Ireland, of the growth or production thereof respectively, in ships qualified and navigated as beforesaid. And, if any ship or vessel shall import any other commodities of the growth, production, or manufacture of Europe, of which due proof shall not be made that they were shipped or laden in some port of England, Wales, or Berwick, the same ship or vessel is forfeited, with her guns, tackle, apparel &c., and also all such European commodities, which you are to seize and prosecute according to law.

11. And, for the further prevention of frauds, you are to inform yourself whether any ships or vessels arriving within lade or unlade any commodities whatsoever until the master or commander thereof shall first have made known to the Governor, or whom he appoints for that purpose, the arrival of each ship or vessel, with her name and the name and surname of the master, and hath shown that she is an English built ship, or otherwise qualified and navigated according to law, such master being obliged to deliver to the said Governor or such other person a true and perfect inventory of the lading, together with the place or places where such goods were taken in.

12. And whereas we are informed that several ships and vessels do trade in his Majesty's Plantations which by law ought not

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to trade there, and that several European goods have been imported thither from other places than England, Wales, or Berwick, and also that several ships laden with the enumerated Plantation goods have gone for Scotland and other places without first coming to England and actually unlading here and paying his Majesty's duties for the same according to the laws of this Kingdom; for prevention thereof for the future as much as may be, we direct that, with your account which you are to send us, you transmit to us also an account from time to time of each ship or vessel that has entered and cleared with you, according to the form and specimen* which you will herewith receive. And you are carefully to examine all certificates which shall be brought to your Governor, or the person by him appointed for that purpose, of any ships having given bonds, for the preventing of false and counterfeit certificates; and, as to such ships and vessels for which bonds shall be given to your said Governor or other person, you are to use your utmost care and diligence to discover whether the condition of the said bonds be performed, and certificates thereof produced, within the time hereafter limited, on failure whereof such bonds are to be vigorously prosecuted; and, in all cases where bond hath been given, if you can discover and make proof that such ship or vessel has discharged her lading contrary to her bond, you are to give us notice for the prosecution thereof.

13. We herewith send you copy of an Act† lately passed in Scotland for erecting a Company to trade from thence to India, Africa, and America, by which you will observe the danger threatening his Majesty's Plantations and the loss likely to attend our trade from thence, if the Scotch should, under colour thereof, settle themselves in any of the said Plantations; to prevent which, as we have excited your Governor to a vigorous execution of the several laws made in England for the security of the Plantation trade, so we do hereby stir you up thereunto, requiring from you a diligent observance of the said laws and our several orders and instructions in pursuance thereof; and you are to have a more especial eye and regard to such ships and vessels as may be any ways suspected to come from Scotland or be bound thither, it being our resolution to proceed against such officers who shall be any ways guilty of fraud in this kind with the utmost rigour and severity.

14. The better to secure his Majesty's duties, and prevent the frauds of masters of ships, or any of their seamen, in running their goods here in England or sending them directly to foreign parts, you are to demand and take of every master, at his clearing with you, an invoice of the contents and quality of his lading, the marks and numbers thereof, and the persons' names by whom laden and to whom consigned, according to the form‡ herewith sent, copy of which invoice you are by the first conveyance to enclose to us, and to send another copy thereof by the same ship, under cover sealed and directed to the Collector of the port to which she pretends to be bound, keeping by you the original invoice.

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* *See* next paper.

† Note in margin: This Article of instruction is added on occasion of the Scotch Act.

‡ *See* next paper but one.

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15. Herewith you will receive the Act passed the last Session of Parliament, intituled An Act for preventing Frauds and regulating Abuses in the Plantation trade, which you are to put in execution within your district. Particularly you are, in pursuance thereof, to observe* :—

That, from and after the 25 March 1698 no goods or merchandizes whatsoever shall be imported into or exported out of any of his Majesty's Colonies or Plantations, or shall be laden in or carried from one port or place in the said Colonies or Plantations to any other port or place in the said Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, in any ship or bottom but what is or shall be of the build of England or Ireland or the said Colonies or Plantations, and wholly owned by the people thereof or any of them, and navigated with the master and three-fourths of the mariners of the said places only, except such ships only as shall be taken prize, and condemnation thereof made in one of the Courts of Admiralty in England, Ireland, or the said Colonies or Plantations, to be navigated by the master and three-fourths of the mariners English or of the said Plantations as aforesaid, and whereof the property doth belong to Englishmen, with an exception also for three years to such foreign-built ships as shall be employed by the Commissioners of his Majesty's Navy for the time being, or upon contract, in bringing only masts, timber, and other naval stores for the King's service from his Majesty's Colonies and Plantations in manner thereby directed.

16.† You are to take security for his Majesty's use, according to the form and penalty of the bond herewith transmitted to you, from the person who is or hereafter shall be appointed by your Governor for the performance of certain things mentioned in the Act for Encouragement of Trade made in the 15th year of the reign of King Charles II., commonly known by the name of the Naval Officer, for the true and faithful performance of his duty, taking notice that, in default thereof, the person or persons neglecting or refusing to give such security is disabled to execute the said office or employment, and that, till such security be given, and the person appointed to such office or employment be approved by us or the Commissioners of the Customs in England for the time being, the Governor is to be answerable for any of the offences, neglects, or misdemeanours of the person or persons so by him appointed.

17. You are to be diligent in the execution of the powers and authorities given you by the aforesaid Act for visiting and searching of ships and taking their entries, and for seizing and securing or bringing on shore any of the goods prohibited to be imported or exported into or out of any of the said Plantations, or for which any duties are payable or ought to have been paid by any of the Acts therein mentioned, as are provided for the officers of the Customs in England by the Act made in the 14th year of the reign of King Charles II., and also for entering houses or warehouses to search for and seize any such goods, the wharfingers and owners of quays

* Note in margin: The following Articles of instructions are added on occasion of the late Act for preventing Frauds in the Plantation trade.

† Note in margin: This is a particular Article and may be altered as the Commissioners shall see occasion.

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and wharves, or any lightermen, bargemen, watermen, porters, or other persons assisting in the conveyance, concealment, or rescue of any of the said goods, or in the hindering or resistance of yourself or any other officers in the performance of your or their duties, and the boats, barges, lighters, or other vessels employed in the conveyance of such goods, being subject to the like pains and penalties as are provided by the aforesaid Act made in the 14th year of the reign of the said King Charles in relation to prohibited or uncustomed goods in this Kingdom; and, as the like assistance is to be given to you and the other officers in the execution of your and their offices as by the said last-mentioned Act is provided for the officers in England, so you and they will be thereby subject to the same penalties and forfeitures for any corruptions, frauds, connivances, or concealments, in violation of any of the laws, as any officers of the Customs in England are liable to by virtue of the said last-mentioned Act; and, in case you shall be sued or molested for anything done in the execution of your office, you are to plead the general issue, giving this Act in evidence, and claim the like privileges and advantages as are allowed by law to the officers of his Majesty's Customs in England.

18. You are to take notice for your encouragement that all the penalties and forfeitures, mentioned in the aforesaid Act for preventing Frauds and regulating Abuses in the Plantation trade, not particularly disposed of, shall be one-third part to the use of his Majesty, his heirs and successors, one-third part to the Governor of the Colony or Plantation where the offence shall be committed, and the other one-third part to such person or persons as shall sue for the same, to be recovered in any of his Majesty's Courts at Westminster or in the Kingdom of Ireland, or in the Courts of Admiralty held in his Majesty's Plantations respectively where such offence shall be committed, at the pleasure of the officer or informer, or in any other Plantation belonging to any subject of England; and, where any question shall arise concerning the importation or exportation of any goods into or out of the said Plantations, the proof is to lie upon the owner or claimer, and the claimer to be reputed the importer or owner thereof.

19. You are to understand that the payment of the duties imposed by the Act, made in the 25th year of his Majesty's reign, for better securing the Plantation trade, upon the commodities therein enumerated (that may be transported from one Plantation to another for the supply of each other's wants) doth not give liberty for carrying them on to any foreign market in Europe, but that, notwithstanding the payment of the said duties, none of the said goods shall be shipped or laden on board until such security shall be given as is required by law to carry the same to England, Wales, or Berwick, or to some other of his Majesty's Plantations, as often as any of the said goods shall be brought to be re-shipped or laden in any of the said Plantations, under the penalty of forfeiture of ship and goods.

20. You are likewise to take notice that all laws, bye-laws, usages, or customs at the making the aforesaid Act, or which hereafter shall be in practice, or endeavoured or pretended to be in force or practice, in any of the said Plantations, which are repugnant to any of the laws therein mentioned, so far as they do relate to the

Plantations or any of them, or which are any ways repugnant to this present Act or any other law hereafter to be made in this Kingdom, so far as it shall relate to and mention the said Plantation, are illegal, null, and void.

21. Where there shall be reasonable ground of suspicion that the certificates of having given security in England are false, you shall require and take sufficient security for the discharge of the Plantation lading in England, Wales, or Berwick; and, where there shall be cause to suspect that the certificates of discharging the lading of Plantation goods in this Kingdom are false and counterfeit, you are not to cancel or vacate the security given in the Plantations until you shall be informed from us, or the Commissioners of the Customs in England for the time being, that the matter of the said certificate is true; and, if any person or persons shall counterfeit, rase, or falsify any cocket, certificate, return, or permit for any vessel or goods, or shall knowingly or willingly make use thereof, whereby he shall forfeit the sum of 500*l*., and the cocket, certificate, return, or permit so counterfeited, rased, or falsified be invalid, you shall be very active and industrious in discovering any frauds of this kind, and prosecuting the offenders for the recovery of the said forfeiture.

22. You are to take care that in any actions, suits, and informations to be brought or commenced in the Plantation, upon any law or statute concerning his Majesty's duties, or ship or goods to be forfeited by reason of any unlawful importations or exportations, there shall not be any jury but of such only as are natives of England or Ireland, or born in his Majesty's Plantations, upon all which actions, suits, and informations the offences may be laid or alleged to be in any colony, province, precinct, or division of any of the said Plantations where such offences are alleged to be committed, at the pleasure of the officer or informer.

23. And, if you shall observe that any place of trust in the courts of law, or what relates to the treasury of the islands, shall not hereafter be in the hands of the native-born subjects of England or Ireland or of the said islands, you are to inform us or the Commissioners of the Customs in England for the time being thereof for redress.

24. You are to take care that, in all bonds hereafter to be given in the Plantations in manner directed by the aforesaid laws, the sureties therein named be persons of known residence and ability in the said Plantation for the value mentioned in the bonds, and that the condition of the bonds be within 18 months from the date thereof (the danger of the seas excepted) to produce certificates of having landed and discharged the goods therein mentioned in one of his Majesty's Plantations, or in England, Wales, or Berwick, and such bonds, or copies thereof, being attested under the hand or seal of the Governor or Commander-in-Chief to whom the same was given, shall be in force and allowed of as if the original were produced in Court by the prosecutor.

25. If you shall discover that any persons or their assigns, claiming any right or propriety in any lands or tracts of land upon the Continent of America by Charters or Letters Patents, shall at any time hereafter alienate, sell, or dispose of any of the said lands, tracts of land, or proprietics, other than to the natural-born subjects of England, Ireland, Wales, or Berwick, without the

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license and consent of his Majesty, his heirs and successors, signified by his or their Order in Council first had and obtained, you shall give notice thereof to us, or to the Commissioners of his Majesty's Customs in England for the time being. And, if any Governors, nominated and appointed by such persons or proprietors who shall be entitled to make such nomination, shall not be allowed and approved of by his Majesty, his heirs and successors, and shall not take the oaths enjoined by this or any other Act to be taken by the Governors or Commanders-in-Chief in other his Majesty's Colonies and Plantations, before their entering upon their respective governments, under the like penalty his Majesty's Governors and Commanders-in-Chief are by the said Acts liable to, you shall likewise inform us or the said Commissioners of the Customs in England for the time being thereof, to the end the same may be laid before his Majesty, and such persons duly prosecuted.

26. And whereas by the aforesaid Act no ship or vessel shall, from and after the 25 March 1698, be deemed or pass as a ship of the build of England, Ireland, Wales, Berwick, Guernsey, Jersey, or of any of his Majesty's Plantations in America, so as to be qualified to trade to, from, or in any of the said Plantations, until the person or persons claiming property in such ship or vessel shall register the same in form and manner as thereby is appointed, if any ship or vessel shall be found trading to, from, or in your district after the said 25th March, and not having made proof of her build and property as thereby is directed, such ship or vessel will be liable to such prosecution and forfeiture as any foreign ship (except prizes condemned in the High Court of Admiralty) would by this law be liable to for trading with those Plantations; in which law it is provided that all such ships as have been or shall be taken at sea by letters of marque or reprisal, and condemnation thereof made in the High Court of Admiralty of England as lawful prize, shall be specially registered, mentioning the capture and condemnation instead of the time and place of building, with proof also upon oath that the entire property is English, before any such prize shall be allowed the privilege of an English built ship according to the meaning of the said Act; wherein, you will observe, it is further provided that nothing therein shall be construed to require the registering any fisher boats, hoys, lighters, barges, or any open boats or other vessels (though of English or Plantation build) whose navigation is confined to the rivers or coasts of the same Plantation or place where they trade respectively, but only of such as cross the seas to or from any of the lands, islands, places, or territories in the said Act recited, or from one plantation to another. Nor shall any ship's name registered be afterwards changed without registering such ship *de novo*, which by the last clause in the aforesaid Act is required to be done upon any transfer of property in another port, and delivering up the former certificate to be cancelled, under the same penalties and in the like method therein before directed.

27. You are, in all these aforesaid and what further instruction shall from time to time be given you, either by the Lords Commissioners of the Treasury or the Lord High Treasurer of England for the time being, or the Commissioners of the Customs in England for the time being, in general rules or directions, and in all other matters and things relating to your employment, faithfully and

diligently to demean yourself, and shall not wittingly or willingly suffer to be done, abet, or conceal any act or thing whereby or wherein the aforesaid Acts or either of them, or anything therein contained, may be violated or broken, or wherein his Majesty's duties either in England or the Plantations may be lessened or damaged.

28. You are out of this body of Instructions to give such particular orders and instructions no ways repugnant hereto to any officers acting under you as in your judgment and direction you shall think fit for his Majesty's service. *Endorsed* as read this day. Com. Book.

(*bb*[2].) 8 March 1696.—Form or specimen referred to in Article 12 of preceding.

(*bb*[3].) 8 March 1696.—Form of Master's invoice referred to in Article 14 of preceding.

(*bb*[4]). 8 March.—Copy of the Commissioners' Letter and Instructions to the Governors of his Majesty's Plantations on occasion of the Scotch Act.—There having been an Act lately passed in Scotland for erecting a Company to trade from thence to India, Africa, and America, wherein many persons have interested themselves by large subscriptions in order to a vigorous carrying on of the trade to and from those parts, which in time may tend to destroy the trade and navigation of England and carry it to Scotland, we did lately, in obedience to an Order of the Right Honble. the Lords Spiritual and Temporal in Parliament assembled, lay before their Lordships in writing what we conceived the proper means to remedy the inconveniences arising by the said Act, and their Lordships, with the Commons assembled in Parliament, having in an Address represented to his Majesty the great advantages thereby granted to this Company, and the obstructions that this Act will unavoidably bring to the general trade of this nation, and particularly that, when the Scotch shall have settled themselves in Plantations in America, our commerce in tobacco, sugar &c. will be utterly lost, for the reasons therein mentioned, we do herewith send you copy of the said Act, with copies of our said Report and of this Address, with his Majesty's Most Gracious Answer to the said Address, as the best means to awaken and excite you to a vigorous execution of the several laws made in England for the security of the Plantation trade, and making this Kingdom the staple both of the commodities of the Plantations and the commodities of other countries and places for the supply of the said Plantations; and, as we hope that the said laws and orders and instructions, which from time to time we have given in pursuance thereof to the several officers employed under us within your governments, will be found sufficient to prevent the inconveniences and mischiefs which may arise from this Act, so we desire you will please more especially at this time to see that all and every of the said officers do strictly pursue their duties, according to the laws of England relating to the Plantations, which they have in charge from us, and our aforesaid orders and instructions, and give you an account of every ship trading within their respective districts, in the form and method prescribed by us. And it will more especially concern you to be very careful that the persons employed under you as naval officers, for the taking of bonds and the giving out and taking in of certificates, be persons of known integrity, and that they

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No. 1115. On the other hand, that no officer within your governments may pretend ignorance, or be imposed upon in receiving or accepting of forged certificates mentioning security to be taken by the officers of the Customs in some port of England, Wales, or Berwick for the return of the ships with their ladings to this Kingdom, or other forged certificates for ships discharging their ladings from the Plantations in some port of England, Wales, or Berwick, when in reality no such bonds have been here given nor loadings here discharged, but the ships therein mentioned have gone directly to and from Scotland (of which we have many instances now before us), we shall, for preventing these frauds and abuses hereafter, every three months, or as often as conveyance shall offer, send you an authentic list of every ship or vessel, with the master's name, that has entered in any port of England, Wales, or Berwick for any of his Majesty's Plantations and given security to return from thence with her lading, and a like list of every ship that has discharged her lading from . . . . and had a certificate thereof from any Custom-house of England, Wales, or Berwick, in order to the vacating the security given with you; and, if any ship pretending to come from England with a certificate of giving bond here, or a certificate of discharging her lading in some port of this Kingdom, for vacating the bond given to you, shall not be found in one of those lists respectively, according to the order and date of such certificate, you may conclude such certificate to be forged or counterfeit, and, as the case shall happen, it will be incumbent on you either to prosecute the bond as forfeited, or to seize such ship as shall presume to load or take on board any of the enumerated commodities by colour of such counterfeit certificate, unless it may so fall out that a ship shall arrive with a certificate from England before such list comes to your hands, whereby to discover whether it be a true or counterfeit certificate, in which case it will be advisable for you to take good security in the country for her carrying such of the enumerated Plantation goods as she shall there load to some port of England, Wales, or Berwick.

We likewise remind you on this occasion of the Clause in the Act of Navigation, made in the 12th year of the reign of King Charles II., which provides that no alien, or person not born within the King's allegiance or naturalized or made a free denizen, shall exercise the trade or occupation of a merchant or factor in any of the Plantations, upon pain of forfeiture of all his goods and chattels, and we desire you to cause a due observance thereof within your government.

And let the Commanders of his Majesty's ships of war, or other having Commission from his Majesty, coming to . . . , be furnished with copies of the Instructions which we have heretofore purposely prepared and sent you, in pursuance of the said Act of Navigation, by which Act they are authorized to seize and bring in as prize all such ships and vessels as shall be found offending contrary thereunto, for whose encouragement one moiety of the forfeitures after condemnation is thereby allotted them and their companies, to be divided and proportioned amongst them according to the rules and orders of the sea in case of ships taken prize. And, as by the Acts of Trade and

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Navigation the Governors of the Plantations are particularly enjoined, by solemn oath and under the penalty of being removed from their respective governments, to do their utmost that all the matters and things therein contained shall be punctually and *bonâ fide* observed, according to the true intent and meaning thereof, so we expect you will particularly take care that no ships or vessels be permitted to import or export any goods or commodities to or from your government but such as shall be duly qualified and navigated as thereby is directed, having a more particular eye and regard to those places which are most conveniently situated for the Scotch and other illegal traders to load and discharge at, as . . . . And withal let none be accepted or taken as security with masters of ships but such as shall be persons of sufficiency and value, and inhabitants on the place.

It remains only further that we remind you of the Act of Trade, made in the 15th year of the reign of King Charles II., which provides that no European goods (except what are therein excepted) shall be imported into any of his Majesty's Plantations but such as shall be laden and shipped in England, Wales, or Berwick, and in ships and vessels qualified and navigated as therein is directed, under the penalty of forfeiture of ship and goods; and every person or persons importing any goods or commodities whatsoever into any of the Plantations is by the same Act to deliver each respective Governor, or the person authorised by him, within 24 hours after such importation, their names and surnames and a true inventory and particular of all such goods, together with the place or places in which the said goods were laden or taken in, under the like penalty and forfeiture.

9 Jan. 1695–6.

Sent to—

His Excellency Sir Edmund Andros, Knt., his Majesty's Lieutenant and Governor of his Majesty's Territory of Virginia.

His Excellency Col. Nicholson, Captain-General and Governor of the Province of Maryland.

The Hon. Sir William Beeston, Knt., his Majesty's Lieut.-Governor and Commander-in-Chief of Jamaica and Territories thereof in America.

His Excellency Col. Benjamin Fletcher, Captain-General and Governor of New York.

The Lieutenant-Governor of Nevis, one of his Majesty's Leeward Caribbee Islands in America.

John Goddard, Esq., his Majesty's Lieut.-Governor and Commander-in-Chief of Bermudas.

William Markham, Esq., Governor of Pennsylvania and counties annexed.

The Governor for the time being of Carolina.

Andrew Hamilton, Esq., Governor of East and West Jersey.

The Hon. William Houghton, Esq., his Majesty's Lieut.-Governor of Massachusetts Bay in New England.

Endorsed as read this day.

(Com. Book).

(*bb*[5].) 8 March 1696–7.—Articles of the Standing Instructions to the Governors of his Majesty's Plantations in relation to Trade, as follows :—

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1. You are well and truly to inform yourself of the principal laws relating to the Plantation trade, vizt., the Act of Navigation made in the 12th year of the reign of King Charles II., the Act of Trade made in the 15th year of his said Majesty's reign, the Act for regulating the Plantation Trade made in the 22nd and 23rd years of his said Majesty's reign, and the Act for better securing the Plantation Trade made in the 25th year of his said Majesty's reign, being contained in a Book of Rates herewith delivered to you for your further information.

2. You are to take notice that by the said Act of Navigation no goods or commodities whatsoever are to be imported into or exported out of his Majesty's province of Maryland, or any other of his Majesty's Colonies or Plantations, in any other ships or vessels whatsoever but in such as do truly and without fraud belong only to the people of England or Ireland, Wales, or Berwick, or are of the build of and belonging to any of his Majesty's Colonies or Plantations, as the proprietors and right owners thereof, and whereof the master and three-fourths of the mariners at least are English, under the penalty of the forfeiture and loss of all the goods and commodities which shall be imported or exported in any other ship or vessel, as also of the ship or vessel, and if any goods shall be imported or exported contrary thereunto, you are to cause service to be made thereof, as also of the ship or vessel importing or exporting the same, and direct prosecution thereof, as in the said Act is provided. And, for your information as to foreign-built ships, we refer you to the Act made in the 14th year of his said Majesty's reign for preventing Frauds and regulating Abuses in his Majesty's Customs, being also contained in the said Book of Rates. And whereas it is required that the master and three-fourths of the mariners at least be English, you are to understand that any of his Majesty's subjects of Ireland or the Plantations are to be accounted English, and no others, and that the number of mariners are to be accounted according to what they shall have been during the whole voyage.

3. Whereas by the said Act of Navigation it is further enacted that for every ship or vessel which, from and after the 25th of December, 1660, shall set sail out of or from England, Ireland, Wales, or Berwick-upon-Tweed, for any English Plantation in America, Asia, or Africa, sufficient bond shall be given, with one surety, to the chief officers of the Custom-house of such port or place from whence the said ship shall set sail, to the value of 1,000*l.* if the ship shall be of less burthen than 100 tons, and of the sum of 2,000*l.* if the ship shall be of greater burthen, that, in case the said ship or vessel shall load any of the commodities therein enumerated at any of the said English Plantations, that the same commodities shall be by the said ship brought to some port of England, Ireland, Wales, or to the port or town of Berwick-upon-Tweed, and shall there unload and put on shore the same (the danger of the seas only excepted), and, for all ships coming from any other port or place to any of the aforesaid Plantations, who by Act are permitted to trade there, that the Governors of such English Plantations shall, before the said ship or vessel be permitted to load on board any of the said commodities, take bond, in manner and to the value aforesaid, for each respective ship or vessel, that such ship or vessel

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shall carry all the aforesaid goods that shall be laden on board the said ship to some other of his Majesty's English Plantations, or to England, Ireland, Wales, or Berwick, and that every ship or vessel which shall load or take on board any of the aforesaid goods until such bond be given to the said Governor, or certificate produced from the officers of any Custom-house of England, Ireland, Wales, or Berwick, that such bond has been there duly given, shall be forfeited, with her guns, tackle, apparel, and furniture, to be employed and recovered as therein is directed.

You are to take notice that, although by the said Act the word "Ireland" is to be inserted in the condition of the bonds, and permission thereby given to bring the enumerated Plantation commodities to Ireland, as well as to England, Wales, or Berwick, yet by the aforesaid Act for regulating the Plantation trade (which, being expired, is revived by an Act of the present Session of Parliament) the word "Ireland" is to be left out of the condition of such bonds, and you are not to permit any ship or vessel to load any of the enumerated goods upon any certificate of bond having been given in Ireland after the . . . day of . . . . next; but, in that case, before they load any of the said goods, they are to produce certificates of bond given in England, Wales, or Berwick, or to give bond to yourself or the person by you appointed to receive the same, with good security as aforesaid; and, if any ship or vessel shall load or take on board any of the said commodities until such bond given in Maryland, or certificate produced from the officers of some Custom-house of England, Wales, or Berwick, that such bond has been there duly given, the said ship or vessel is forfeited with her guns &c., to be recovered and divided in manner as therein is directed.

4. And whereas by the aforesaid Act made in the 25th year of his said Majesty's reign for better securing the Plantation trade it is enacted that, if any ship or vessel which, by law, may trade in any of his Majesty's Plantations shall come to any of them to ship and take on board any of the aforesaid commodities, and that bond shall not first be given with one sufficient surety to bring the same to England, Wales, or the town of Berwick-upon-Tweed, and to no other place, and there to unload and put the same on shore, the danger of the seas only excepted, that there shall be answered and paid to his Majesty, his heirs and successors, for so much of the said commodities as shall be laden and put on board such ship or vessel the rates and duties therein mentioned. You are to understand that the payment of the said rates and duties thereby imposed doth not give liberty to carry the said goods to any other place than to some other of His Majesty's Plantations, or to England, Wales, or Berwick, and that, notwithstanding the payment of the said duties, bond must be first given to carry the said goods to some other of his Majesty's Plantations, or to England, Wales, or Berwick, and to no other place.

5. And, for preventing the many frauds, mischiefs, and inconveniences in granting certificates to ships giving in bond in England, Wales, or Berwick, the Commissioners of his Majesty's Customs have caused certificates in blank to be sent to the Customer, Comptroller and Collector of each port in this Kingdom, with directions to grant the same as occasion [requires]; and you are to cause all such certificates of bond given in England, Wales,

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or Berwick to ships arriving within his Majesty's province of Maryland to be produced, as well to the Collector of his Majesty's Customs there for the time being, or his deputy, as to the officer by you appointed to receive the same. And, the better to discover the truth of certificates of bond given in Maryland, the said Commissioners of his Majesty's Customs did formerly deliver to you a sufficient number of printed certificates in blank of several sorts, and you are to give order and take care that your secretaries or naval officers do join with the said Collector of the Customs, or his deputy for the time being, in granting the said certificates, and that they do not grant any other certificates than those before mentioned, nor them without the hand and seal of the said Collector or his deputy, nor accept of any security upon the bonds given in Maryland without the privity and approbation of the said Collector or his deputy, or of any certificates in discharge of such bonds without the like approbation.

6. Whereas by the aforesaid Act in the 15th year of his said Majesty's reign, and his said Majesty's proclamation pursuant thereunto of the 24th November in the 27th year of his reign, no commodities of the growth, production, or manufacture of Europe (except salt for the Fishery of New England and Newfoundland, wines of the growth of the Madeiras or Western Islands or Azores, servants or horses from Scotland or Ireland, and all sorts of victuals of the growth or production of Scotland or Ireland) shall be imported into any of his Majesty's Colonies or Plantations but what shall be *bonâ fide* and without fraud laden and shipped in England, Wales, or Berwick, and in ships duly qualified, you are to use your utmost endeavours for the due observance thereof, and if, contrary hereunto, any ship or vessel shall import into Maryland any commodities of the growth, production, or manufacture of Europe but what are before excepted, of which due proof shall not be made that the same were shipped and laden in some port of England, Wales or Berwick, by producing cockets, or certificates under the hands and seals of the officers of the Customs in such port or place where the same were laden, such ship or vessel and goods are forfeited, and you are to give in charge that the same be seized and prosecuted accordingly. And, in order to prevent the acceptance of forged cockets, which hath been practised to his Majesty's great prejudice, you are to give effectual orders that, for all such European goods as by the said Act and proclamation are to be shipped in England, Wales, or Berwick cockets for the same in England, Wales, or Berwick be produced to the said Collector of the Customs in Maryland, or to his deputy there for the time being, before the unloading thereof, and you are likewise directed to give order that no European goods be landed but by warrant from the said collector or his deputy in the presence of an officer appointed by him. And, for the better preventing of frauds of this kind, you are to take care that, according to the said Acts of Trade, no ship or vessel do lade or unlade any goods or commodities whatsoever until the master or commander thereof shall first make known to you, or such officer or other person as shall be by you thereunto appointed and authorized, the arrival of the said ship or vessel, with her name, and the name and surname of the master, and hath shown that she is a ship duly navigated and otherwise qualified according to law,

and hath delivered to you, or such other person, a true and perfect inventory of her lading, together with the place or places in which the said goods were laden and taken into the said ship or vessel, under forfeiture of such ship and goods. You are likewise to cause effectual orders to be given that all masters of ships not trading coastwise from one part of Maryland to another do enter their ships with the Collector of his Majesty's Customs in the said province, or his deputy for the time being, as well as with the naval officer, and also give in their contents upon oath to the said Collector or his deputy.

7. And whereas we have been informed that several ships and vessels have carried great quantities of the enumerated Plantation goods from his Majesty's Colonies and Plantations to Holland, Hamburgh, and other places, without first landing the same in England, as the law in that case has provided, to the great prejudice of his Majesty's Customs and the trade and navigation of this Kingdom, for preventing the like frauds for the future, as much as in you lies, you are every year, or oftener as occasion [requires], to send a list of all such ships or vessels as shall lade any of the enumerated Plantation commodities within his Majesty's province of Maryland, or import any European goods, according to the form herewith delivered to you, to the Commissioners of his Majesty's Customs in England for the time being, at the Custom-House in London.

8. Whereas we have been informed that there are a considerable number of bonds taken in his Majesty's province of Maryland, from masters of ships trading thither, in pursuance of the Act of Navigation, and that counterfeit certificates of landing the Plantation commodities in England have been produced in discharge of some of the said bonds, though the said commodities were carried directly to other parts than England, Wales, or Berwick, as also fictitious certificates of bond pretended to be given in England, Wales, or Berwick, when no such bonds have been there really given; and, moreover, that several forged and counterfeit cockets, alleged to be granted in England, have been accepted in Maryland, by colour whereof great quantities of European goods have been there passed as coming directly from England, Wales, and Berwick, when as in truth, the said goods were shipped and laden elsewhere, to the manifest prejudice of his Majesty's Customs and the trade and navigation of this Kingdom; you are therefore to cause a list of all the bonds taken and that shall be taken in Maryland, between Michaelmas 1679 and Michaelmas 1685 next coming, to be forthwith transmitted to the Commissioners of his Majesty's Customs in England for the time being, therein distinguishing which of the said bonds are discharged, and which of them remain uncleared. You are also to cause to be transmitted to the said Commissioners all the original certificates which have been produced in Maryland, during that time, from the several Custom-houses of England, Wales, or Berwick, for the discharge of bonds given in Maryland; and also the original certificates of bond given, or pretended to be given, in the several ports of this Kingdom; together with all the original cockets which have been produced for European goods shipped or pretended to be shipped in the said ports, keeping abstracted lists or accounts thereof, and taking a receipt from the person to whom the same are delivered.

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9. And whereas, for the better collection of the several rates and duties imposed by the said Act of the 25th year of his said Majesty's reign, that whole business is to be ordered and managed, and the several duties thereby imposed are to be caused to be levied, by the Commissioners of his Majesty's Customs in England for the time being, by and under the authority and direction of the Lord Treasurer of England, or Commissioners of the Treasury for the time being, you are forthwith to require and command such of your officers as have taken upon them the collection of the said rates and duties to cease any further to act therein, and to render to the Commissioners an account of their receipts and payments since the death of the late Collector, together with an account of their seizures and other proceedings. And you are to give in charge that they do not hereafter presume to collect his Majesty's duties, or otherwise to concern themselves therein, without the special appointment and direction of the said Commissioners, and both you and they and all others concerned are hereby required to be aiding and assisting to the Collector and other officers appointed or that shall hereafter be appointed by the said Commissioners, by and under the authority and direction of the Lord High Treasurer of England, or Commissioners of the Treasury for the time being, in putting in execution the several Acts of Parliament before mentioned, together with such orders and instructions as they have, or shall from time to time receive, from the said Commissioners. *Endorsed* as read this day. Com. Book.

(*cc.*) 4 March.—Mr. Randolph's Paper to the Committee, as follows:—

May it please your Lordships,

The East India Company in Scotland have the following privileges granted them by the late Scotch Act, under colour whereof they claim a right to trade in his Majesty's English Plantations.

They have liberty [In Margin: Scotch Act p. 4] to plant colonies, &c., in, and upon places not inhabited, or in and upon places inhabited by consent of the natives and inhabitants thereof: To make [In Margin: p. 5] and conclude treaties of peace and commerce with the Governors and Proprietors, paying only to his Majesty of Scotland one hogshead of tobacco yearly, if required. And, although they forbid all other Scots than those of their own Company to touch on any Plantation which they shall acquire, on pain of confiscation, yet they allow all such Scots to trade in tobacco and sugar elsewhere (that is to say amongst the English), they paying for what they so bring home such duties as are established in Scotland; by all which it may be presumed how they project to let themselves into the trade of his Majesty's Plantations, and it is probable they meditate either the purchasing a settlement in West Jersey on the northward, or in one of the three lower counties of Newcastle, Kent, or Sussex on the southern shore of Delaware Bay, being no part or parcel of the land granted Mr. Penn in his Patent of Pennsylvania, or in some one or more islands nigh the Continent; by which expedient (if acquired) they might in a short time make a staple, not only of all sorts of European manufactures, but also of the enumerated Plantation commodities, even as it is at this day practised at the small Dutch island of Carasaw [Curaçoa]. For prevention therefore of so great a mischief to England, an Act was passed the last Session of Parliament, intituled An Act for

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preventing Frauds and regulating Abuses in the Plantation Trade, wherein it is enacted [In Margin: page 509] "That all "persons claiming any right or property in any islands or tracts "of land upon the Continent of America shall not hereafter "sell or dispose of the said lands, &c., other than to the natural-"born subjects of England, Ireland, dominion of Wales, or town "of Berwick-upon-Tweed, without the licence or consent of his "Majesty, his heirs and successors, signified by his or their Order "in Council, first had and obtained;" which indeed puts a present stop to their selling any of those lands to the Scotch Company, but there is no penalty upon such who shall sell or dispose of them without his Majesty's said Order in Council; "And all Governors [In Margin: *Ibid.*] nominated and appointed "by any such persons or proprietors who shall be entitled to "make such nomination shall be allowed and approved of by his "Majesty, his heirs and successors as aforesaid, and shall take "the oath enjoined by this or any other Act to be taken by the "Governors or Commanders-in-Chief in other his Majesty's "Colonies and Plantations before their entering upon their "respective governments, under the like penalty his Majesty's "Governors and Commanders-in Chief are liable to."

But, in regard there is likewise no penalty upon those who shall refuse to make such nomination, and that, after his Majesty has approved of such person so nominated to be the Governor, there being no power invested in his Majesty by the said Act either to remove such Governor for misdemeanour or to appoint another in his stead, in case the Proprietor neglect to nominate one, it is then to be feared such Governors, being under no check, will exercise an arbitrary power and promote the interest of their proprietors and inhabitants by being favourable to the Scotch trade (as formerly). Besides, this last clause, chiefly intended for suppressing the Scotch trade in the Plantations, does not (as I humbly conceive) answer the proposed end, for there is a great uncertainty in it, in regard the proprietors are altered and changed upon every sale (as those of the Jerseys), having by the said Act liberty to sell and dispose of their lands at their pleasure; and, although some of the proprietors are noblemen and persons of honour (*Mr. Penn aforesaid pretending ever to be very zealous for the interest of the present Government*),* yet it is not known how soon both his and the other proprieties may fall into the hands of persons less regarding the interest and advantage of the Crown.

The several proprieties are extended above a thousand miles upon the Continent of America. The Scots have a long time tasted the sweetness of the trade to our Plantations, they paying no duties to his Majesty for the goods they import to the Plantations, nor for the tobacco they carry from thence to Scotland directly, so that they can thereby sell their goods at far cheaper rates and give a better price to the inhabitants for their tobacco than the English merchants can do, which is not to be prevented but by a clause to invest the dominion of all those proprieties in his Majesty, in like manner as are the governments of Virginia, Maryland, and Barbadoes, which will in no wise invade or disturb the property the owners and inhabitants have to the soil, and all

* The words in italics are cancelled.

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the profits and advantages arising from it, but the contrary. All which is humbly submitted by

Ed. RANDOLPH.

Endorsed as received 8 and read 11 March. Com. Book.

(*dd*). 11 March 1696–7.—An Expedient against fraud in the tobacco trade, vizt.:—

Something humbly proposed in order to prevent foul trade in the Plantations and illegal trade with Scotland, &c.

1. That all Masters and Commanders give 2,000*l*. security (or such sum as thought fit) in the said Plantations for the just performing the Act of Navigation.
2. That every Commander do in the said Plantations give a true content of his ship's loading, according to the law, which obliges the same to be done in England, that is to say, as follows:—

The content of the Ship *Mary* of London, John Watts Master, bound to the Port of London, 10 guns and 16 men, about 200 tons, &c.:—

H × H	-	12	hogsheads	tobacco	shipped	by Henry Hall.
R × B	-	15	„	„	„	Rob. Blake.
C × G	-	10	„	„	„	Chas. Gould.
L × M	-	16	„	„	„	Lawrence Mason.
◇S	-	50	„	„	„	Stephen Dancy.
◇D	-	50	„	„	„	John Williams.
R × S	-	70	„	„	„	Rich. Smith.
		223	hogsheads in all.			

3. That such content as above be made tripartite, all sworn to be true by the Commander of the said ship and signed by his hands, all which is to be certified and signed on such contents by the Collector of the said Plantation, one of which contents, so perfected, the officer appointed shall deliver to the Commander, by which he shall be obliged to enter his ship in England.
4. That one of the said contents, so perfected, shall be sent by some convenient ship to the Commissioners of the Customs in the Port of London, &c., who shall keep a just account of the same in a book, and shall give no certificate of such ship's discharge, but that the same be noted under such certificate in the said book so kept in the Custom-house at London.
5. The third content, so perfected, shall remain and be fairly entered in a book in the said Plantations, with the securities given for the just discharge of the said ship.
6. And that all Commanders be obliged in some convenient time to cause a certificate to be produced from the Commissioners of the Customs in London, or other port where he shall discharge, that he has made a legal discharge of his ship's lading in England to the Governor of such Plantations; which certificate shall be entered in the above-said book as a discharge of the said securities, or otherwise the said securities to be sued for the same; and the said officer, on such penalty as thought convenient, be obliged to sue the same and to recover the same without composition (always the danger of the seas and enemies to be excepted).

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7. And, to remove all excuses that may be made of ships wanting securities in such Plantations, such Commander may, by a just letter of credit from his merchants and owners, obtain such in any Plantation, which letters of credit to become obligatory on the persons so giving them in case of fraud with double damages, by which means it will be hard for any person ever to run into irregular trade in the Plantations, which now is daily practised.

8. And, to prevent all false certificates, a severe penalty should be laid on such as do produce them.

9. And, for better security from false certificates, the Commissioners of the Customs shall by all ships send to the Governments of the said Plantations a list or account of all certificates by them given, which will with great ease detect the fraudulent trader.

10. That such certificates before-mentioned be printed upon paper, with a note or flourish, and cut indenture-wise, and numbered from 1 to 1,000 or more, and that each Plantation have such a number as may be suitable to the ships they yearly lade, of which a book may be kept in the Port of London, showing what numbered certificates are sent to each place, and what numbered certificate each ship carries, by which the officer in the Plantations may examine them.

11. The cruisers now allowed in the rivers of Maryland and Virginia to be continued, with further encouragement to detect ships from any place but directly from England, and good encouragement to be given to any seaman or seamen that shall discover any ship to enter herself in the Plantations coming from any place but as aforesaid, the same both for cruising and encouragement to be understood in any of the King's Colonies in America.

Certain ports in England to be assigned for the unlading of tobacco.

Endorsed as read this day. Com. Book.

(*ee.*) 15 March 1696–7.—Report of the Commissioners of the Customs to the Lords' Committee, in pursuance of Order of 11 March, as follows:—

To the Right Honble. the Lords Committees appointed to consider the State of the Trade of this Kingdom.

May it please your Lordships,

In obedience to your Lordships' Order of the 11th instant, we do herewith return to your Lordships the Paper delivered in by Mr. Penn, superscribed "An Expedient against fraud in the tobacco trade," with our observations thereupon. And, in obedience to your Lordships' other Order of the same date, we do herewith humbly lay before your Lordships the Instructions to the Governors of the King's Plantations which we have prepared to be laid before his Majesty for his Royal signature by the Right Honble. the Lords Commissioners of his Majesty's Treasury.

Walter Yonge.
Robert Southwell.
C. Godolphin.
Sam. Clarke.

Endorsed as read this day. Com. Book.

(*ee*[1].) 15 March 1696–7.—Observations of the Commissioners of the Customs on Mr. Penn's Paper superscribed "An Expedient against fraud in the tobacco trade"; vizt.:—

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1*. This Act of Navigation, made in the 12th year of the reign of King Charles II., makes particular provision for this, vizt., that sufficient bond shall be given with one surety for every ship or vessel trading in the Plantations, to the value of 1,000*l.* if the said ship be of less burthen than 100 tons, and of 2,000*l.* if she be of greater burthen; and it has been the constant practice to take such bonds for ships going from England to the Plantations, and for ships coming from any other places to the Plantations there to give like bonds pursuant to the said Act and the Commissioners' Instructions thereupon.

3, 4, 5. This is sufficiently provided for, as may be seen by the 12th and 14th Articles in the Instructions to the officers of the Customs in the Plantations, and the forms and specimens therein mentioned, copies whereof were laid before your Lordships at the Commissioners' last attendance.

6. The Governors and officers in the Plantations have been instructed by the Commissioners to use their utmost endeavours to discover whether the conditions of the bonds there given have been performed, and certificates thereof produced, within a convenient time, and on failure to prosecute such bonds. And, by a clause prepared in the Bill by the Commissioners and passed into an Act the last Session of Parliament, intituled An Act for preventing Frauds and regulating Abuses in the Plantation Trade, it is provided that the sureties in the bonds taken in the Plantations shall be persons of known residence and ability there for the value mentioned in the bonds, and that the condition of the bonds shall be within 18 months after the date thereof (the danger of the seas excepted) to produce certificate of having landed and discharged the goods therein mentioned in one of the Plantations, or in England, Wales, or Berwick, otherwise such bond to be prosecuted, which is also a part of the Governors' and officers' instructions.

7. It is already incumbent by law upon the master of every ship or vessel coming to the Plantations from England, before he loads in the said Plantations, to produce certificate of bond given in some port of England, Wales, or Berwick to return with his lading directly hither, and none but ships coming to any of the Plantations, and which are by law permitted to trade there, are at liberty to give bond to the Governor; and those bonds are to be taken by the Governor from the master, and one sufficient surety, with condition to carry the lading to some of his Majesty's Plantations or to England, Wales, or Berwick, and to no other place, under the penalty of forfeiture of every ship that shall load or take on board any goods before this be done. And, as generally the owners of ships going from England to the Plantations are here bound with their Masters for their return as aforesaid, so there is no need of letters of credit from such owners or others for obtaining securities in the Plantations, which cannot by law be there taken; nor do we see how it is practicable for ships coming to the Plantations from other places to have such letters of credit from England; but that in this case it is far more advisable for the Governors to take bonds from responsible persons of known residence and ability in the Plantations than to rely on letters of credit from

* The corresponding proposals to which these observations respectively relate are written on the opposite page. They appear in Mr. Penn's paper (*dd.*) above.

persons of foreign abodes, of whom nothing can in any likelihood be ever recovered, not to mention the frauds and abuses such letters of credit may be subject to by counterfeits, &c.

8. The Commissioners of the Customs made provision for this in the Bill which afterwards passed into the aforesaid Act for preventing Frauds and regulating Abuses in the Plantation Trade, wherein it is enacted that, if any person or persons shall counterfeit, rase, or falsify any cocket, certificate, return, or permit for any vessel or goods, or shall knowingly or willingly make use thereof, such person or persons shall forfeit the sum of 500*l.*; and the Commissioners have given the Governors and officers instructions to be active and industrious in discovering any frauds of this kind and prosecuting the offenders for the recovery of the said penalty.

9 and 10. The Commissioners are in the practice of sending to the several Governors authentic and attested lists of every ship or vessel, with the master's name &c., that has entered in any port of England, Wales, or Berwick for any of his Majesty's Plantations and given security to return from thence with their ladings, and like lists of every ship that has discharged her lading in England and had a certificate thereof from any Custom-house of England, Wales, or Berwick, in order to the vacating of the security given in the Plantations, and have given instructions that, if any ship pretending to come from England with a certificate of giving bond here, or a certificate of discharging her lading in some port of this Kingdom for vacating the bond given in the Plantations, the Governor may conclude such certificate to be forged or counterfeit, and is therefore to seize such vessel and prosecute such bond; and, the Commissioners having long since provided printed forms of these certificates upon paper, which are in use both here in England and in the Plantations, they humbly conceive this as much as is necessary to be done for security from false certificates.

11. The Commissioners did heretofore obtain an Order in Council for employing two small vessels to cruise on the coasts of Virginia, Maryland, and Pennsylvania, with power to the Commanders to examine all ships and vessels trading there, and to inspect their clearing &c., whereof there has been found a very good effect, as they have been informed from Colonel Nicholson, Governor of Maryland; and, upon notice from him of the death of Thomas Meeche, Commander of one of the said sloops, and that he was doubtful whether he should be able to get anyone to undertake that employment, by reason of the general aversion in most people to suppress the illegal trade, for which reason he proposed that some small vessel might be sent from England, the Commissioners did accordingly humbly offer to the Right Honble. the Lords Commissioners of the Treasury that such a vessel, of about 40 tons burthen, might be forthwith dispatched away from hence, with orders to the Commander to follow such instructions as he should from time to time receive from the said Col. Nicholson, or the Governor of Maryland for the time being, to cause a due observance of the several Acts of Parliament made for preventing frauds and abuses in the Plantation Trade, whereby was intended that the said vessel, with a proportionable force of men and guns, might be sent away by the Lords of the Admiralty at the charge of the

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Navy, instead of a man of war, and that for defraying the charge thereof in the country and the Commander's encouragement, that the said Col. Nicholson might be authorised to dispose of his Majesty's third part of the forfeitures upon the Acts of Trade and Navigation, and the penalties recovered on forfeited bonds, in such manner as he should find most conducing to his Majesty's service; and, in case of any want or deficiency therein, the remainder to be charged on the Navy.

Lastly. This cannot be done without an Act of Parliament, and the Commissioners humbly conceive it no ways advisable to propose the doing thereof.

Custom House, London.
13 March 1696.

Endorsed as read this day. Com. Book.

(*ee*[2].) 15 March 1696-7.—Draft of Orders and Instructions prepared for the King to the Governors of the Plantations for their observance of the Acts of Trade and Navigation, as follows:—

Orders and Instructions to our Right Trusty and well-beloved . . . . . , Governor of our . . . . . of . . . . . , in pursuance of several laws relating to the Trade and Navigation of this our Kingdom of England, and our Colonies and Plantations in America.

1. You shall inform yourself of the principal laws relating to the Plantation Trade, vizt., the Act for encouraging and increasing of Shipping and Navigation made in the 12th year of the reign of our most dearly beloved Uncle of ever blessed memory King Charles the Second; The Act for preventing Frauds and regulating Abuses in the Customs made in the 14th year of the said King's reign; The Act for encouragement of Trade made in the 15th year of the said King's reign; The Act for regulating the Plantation Trade made in the 22nd and 23rd years of the said King's reign; The Act for the encouragement of the Eastland and the Greenland Trades and better securing the Plantation Trade, made in the 25th year of the said King's reign; and the Act for preventing Frauds and regulating Abuses in the Plantation Trade, made in the 7th and 8th year of our reign, all which laws you will herewith receive. And you shall take a solemn oath to do your utmost that all the clauses, matters, and things contained in the before recited Acts of Parliament, heretofore passed and now in force, relating to our Colonies and Plantations, be punctually and *bonâ fide* observed, according to the true intent and meaning thereof.
2. And as, by the last recited Act, the officers appointed by the Governors for performance of certain things mentioned in the aforesaid Act for the encouragement of Trade, commonly known by the name of the Naval Officer, are to give security to the Commissioners of our Customs in England for the time being, or such as shall be appointed by them, for our use, for the true and faithful performance of their duty, you shall take care that the person by you so employed do not only give such security to our said Commissioners of our Customs, but be approved of by them in manner as thereby is enjoined.
3. Whereas, by the said Act of Navigation, no goods or commodities whatsoever are to be imported into, or exported out of, any of our Colonies or Plantations in any other ships or vessels whatsoever but in such as do truly and without fraud belong only to

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our people of England or Ireland, or are of the build of, and belonging to, any of our lands, islands, or territories, as the proprietors and right owners thereof, and whereof the master and three-fourths of the mariners, at least, are English, under the penalty of the forfeiture and loss of all the goods and commodities which shall be imported into, or exported out of, any of the said places in any other ship or vessel, as also of the ship or vessel, with her guns, furniture, &c. And whereas, by a clause in the aforesaid Act of Frauds, no foreign built ship, that is to say not built in any of our dominions of Asia, Africa, or America, or other than such as shall *bonâ fide* have been bought before the 1st October, 1662, and expressly named in the list thereby appointed to be made of all foreign built ships in all the ports of England, shall enjoy the privilege of a ship belonging to England or Ireland, although owned or manned by English (except such ships only as shall be taken at sea by letters of marque or reprisal, and condemnation made in the Court of Admiralty as lawful prize), but all such ships shall be deemed as aliens' ships and be liable to all duties that aliens' ships are liable to by virtue of the aforesaid Act for the encouraging and increasing of shipping and navigation. And whereas, by a clause in the aforesaid Act for preventing frauds and regulating abuses in the Plantation trade, it is enacted that, after the 25th of March 1698, no goods or merchandise whatsoever shall be imported into and exported out of any of our Colonies or Plantations in Asia, Africa, or America, or shall be laden in or carried from any one port or place in the said Colonies or Plantations to any other port or place in the same our Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, in any ship or bottom but what is or shall be of the build of England, or of the build of Ireland, or of the said Colonies or Plantations, and wholly owned by the people thereof, or any of them, and navigated with the master and three-fourths of the mariners of the said places only (except such ships only as shall be taken prize, and condemnation thereof made in one of our Courts of Admiralty in England, Ireland, or the said Colonies or Plantations, to be navigated by the master and three-fourths of the mariners English, or of the said Plantations as aforesaid, and whereof the property doth belong to Englishmen, with an exception for three years of such foreign built ships as shall be employed by the Commissioners of our Navy for the time being, or upon contract with them, in bringing only masts, timber, and other naval stores for our service from our Colonies or Plantations to our Kingdom, to be navigated as aforesaid, and whereof the property does belong to Englishmen), on the pain of forfeiture of ship and goods. And whereas, by another clause in the same Act, for the more effectual prevention of frauds which may be used by colouring foreign ships under English names, it is further enacted that, from and after the 25th of March 1698 no ship or vessel whatsoever shall be deemed or pass as a ship of the build of England, Ireland, Wales, Berwick, Guernsey, Jersey, or any of our Plantations in America, so as to be qualified to trade to, from, or in any of the said Plantations, until the person or persons claiming property in such ship or vessel shall register the same in manner thereby appointed, you shall take care and give in charge that these matters and things be duly observed within our said . . . .

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. . . . . of . . . . . , according to the true intent and meaning of the said Acts, and the offences and offenders proseeuted aeeording to the direetions thereof. And whereas it is required that the master and three-fourths of the mariners be English, you are to understand that the true intent and meaning thereof is that they shall be sueh during the said voyage, unless in case of sickness, death, or being taken prisoners in the voyage, to be proved by the oath of the master or other chief offieer of the ship, and none but our subjects of England, Ireland, or the Plantations are to be aeeounted English.

4. Whereas, by the Act of Navigation, it is further enaeted that for every ship or vessel which shall set sail out of or from England, Ireland, Wales, or Berwick upon-Tweed for any English Plantation in Ameriea, Asia, or Afriea, sufficient bond shall be given with one surety to the chief officers of the Customs of sueh port or place from whenee the said ship shall set sail, to the value of 1,000*l.* if the ship be of less burthen than 100 tons, and of the sum of 2,000*l.* if the ship be of greater burthen, that in ease the said ship or vessel shall load any of the eommodities therein enumerated, viz. sugar, tobaeeo, eotton, wool, indigo, ginger, fustiek or other dyeing wood of the growth, production or manufaeture of any English Plantation in America, Asia, or Afriea, at any of the said English Plantations, that the same eommodities shall be by the said ship brought to some port of England, Ireland, Wales, or to the port or town of Berwick-upon-Tweed, and be there unladen and put on shore, the danger of the seas only excepted; And for all ships eoming from any other port or plaee to any of the aforesaid Plantations, whieh by this Act are permitted to trade there, that the Governors of sueh English Plantations shall, before the said ship or vessel be permitted to load on board any of the said eommodities, take bond in manner and to the value aforesaid for each respective ship or vessel that sueh ship or vessel shall earry all the aforesaid goods that shall be laden on board the said ship to some other of our English Plantations, or to England, Ireland, Wales, or Berwiek; And that every ship or vessel which shall load or take on board any of the aforesaid goods, until sueh bond be given to the said Governor, or eertificate produeed from the officers of any Custom-house of England, Ireland, Wales, or Berwick that sueh bond hath been there duly given, shall be forfeited, with her guns, taekle, apparel and furniture, to be employed and recovered as therein is direeted. You are to take notiee that thongh by the said Aet the word "Ireland" is to be inserted in the eondition of the bonds, and permission thereby given to bring the enumerated Plantation eommodities to Ireland, as well as to England, Wales or Berwick, yet, by the aforesaid Act for regulating the Plantation trade, whieh being expired was revived and is now in force, the word "Ireland" is to be left out of the eondition of sueh bonds, and you are not to permit any ships or vessels to load any of the enumerated goods upon any eertificate of bond having been given in Ireland; But, in that case, before they load any of the said goods, they are to produee eertificates of bond given in England, Wales, or Berwick, under the hands and seals of the Customer and Comptroller of our Customs, or their deputies, in sueh port from whence the respeetive ships shall eome, signed also by four or more of the Commissioners of

Customs in England, or to give bond to yourself, or the person appointed to receive the same, with good security, as aforesaid. And, if any ship or vessel shall load, or take on board, any of the said commodities until such bond given, or certificate produced, the said ship or vessel is forfeited, with her guns, &c., to be recovered and divided in manner as is therein directed. 1696–7. — No. 1115.

5. You shall carefully examine all certificates which shall be brought to you of ships giving security in this Kingdom to bring their ladings of Plantation goods hither, as also certificates of having discharged their ladings of Plantation goods in this Kingdom pursuant to their securities; and, where there shall be reasonable ground of suspicion that the certificate of having given security in England is false, in such case you, or the person appointed under you, shall require and take sufficient security for the discharge of the Plantation lading in our Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed. And, where there shall be cause to suspect that the certificates of having discharged the lading of Plantation goods in this our Kingdom is false or counterfeit, you shall not cancel or vacate the security given in the Plantation until you shall be informed from the Commissioners of our Customs in England that the matter of the said certificate is true. And, if any person or persons shall counterfeit, rase, or falsify any such certificate for any vessel or goods, or shall knowingly or willingly make use thereof, you shall prosecute such person for the forfeiture of the sum of 500*l.*, according to a clause in the aforesaid Act for preventing frauds and regulating abuses in the Plantation trade. And, pursuant to the said Act, you shall take care that, in all such bonds to be hereafter given or taken in the Plantation, viz. in our . . . . . of . . . . . , the sureties therein named be persons of known residence and ability there for the value mentioned in the said bond, and that the condition of the said bonds be within eighteen months after the date thereof, the danger of the seas excepted, to produce certificate of having landed and discharged the goods therein mentioned in one of our Plantations, or in our Kingdom of England; otherwise to attest the copy of such bond under your hand and seal, and to cause prosecution thereof.

6. You are to understand that the payment of the rates and duties imposed, by the aforesaid Act for the encouragement of the Eastland and Greenland trades and for the better securing the Plantations trade, on the several Plantation commodities therein enumerated, doth not give liberty to carry the said goods to any other place than to some of our Plantations, or to England, Wales, or Berwick only; and that, notwithstanding the payment of the said duties, bond must be given to carry the said goods to some of our said Plantations, or to England, Wales, or Berwick, and to no other place.

7. You shall, every three months or oftener, or otherwise, as there shall be opportunity of conveyance, transmit to the Commissioners of our Customs in England a list of all ships and vessels trading within our . . . . . of . . . . . , according to the form and specimen herewith sent to you; and you shall cause demand to be made of every master, at his clearing, of an invoice of the contents and quality of his lading, &c., according to the form herewith also sent you, and inclose a

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copy thereof by some other ship, or, for want of such opportunity, by the same ship, under cover sealed and directed to the said Commissioners of our Customs in England; and send another copy thereof, in like manner, to the Collector of that port in England for the time being to which such ship shall pretend to be bound.

8. Whereas, by the aforesaid Act for the encouragement of Trade, no commodities of the growth, production, or manufacture of Europe (except salt for the Fisheries of New England and Newfoundland, wines of the growth of the Madeiras or Western Islands or Azores, servants and horses from Scotland and Ireland, and all sorts of victuals of the growth and production of Scotland and Ireland) shall be imported into any of our Colonies or Plantations but what shall be, *bonâ fide* and without fraud, laden and shipped in England, Wales, or Berwick, and in ships duly qualified, you shall use your utmost endeavour for the due observance thereof; and if, contrary hereunto, any ship or vessel shall import into our . . . . . of . . . . . any commodities of the growth, production, or manufacture of Europe (but what are before excepted), of which due proof shall not be made that the same were shipped or laden in some port of England, Wales, or Berwick, by producing cockets or certificates under the hands and seals of the officers of our Customs in such port or place where the same were laden, such ship or vessel and goods will be forfeited, and you are to give in charge that the same be seized and prosecuted accordingly.

9. And, in order to prevent the acceptance of forged cockets or certificates, which hath been practised to our great prejudice, you are to give effectual orders that, for all such European goods as by the said Act are to be shipped and laden in England, Wales, or Berwick, cockets for the same from hence be produced to the Collector or other officers of our Customs in our . . . . . of . . . . . for the time being, before the unlading thereof, and you shall give order that no European goods be landed but by warrant from the said Collector, in the presence of an officer appointed by him. And, for the better prevention of frauds of this kind, you shall take care that, according to the said Act of Trade, no ship or vessel be permitted to lade or unlade any goods or commodities whatsoever until the master or commander thereof shall first have made known to you, or such officer or other person as shall be thereunto authorised and appointed, the arrival of the said ship or vessel, with her name, and the name and surname of her master, and hath shown that she is a ship duly navigated, and otherwise qualified according to law, and hath delivered to you or such other person a true and perfect inventory of her lading, together with the place or places in which the said goods were laden and taken into the said ship or vessel, under forfeiture of such ship and goods.

10. You shall not make or allow of any laws, by-laws, usages, or customs in our . . . . . of . . . . . which are repugnant to any of the laws herein-before mentioned, or any of them, so far as they do relate to our said Plantations or any of them, or to any other law here-after to be made in this our Kingdom, so far as such laws shall relate to and mention the said Plantations; but you shall declare all such laws, by-laws, usages,

or customs in our . . . . of . . . . . which are any wise repugnant to the before mentioned laws, or to any of them, to be illegal, null, and void, to all intents and purposes whatsoever. 1696-7. No. 1 15.

11. You shall be aiding and assisting to the Collector and other officers appointed, or that shall hereafter be appointed, by the Commissioners of our Customs in England, by and under the authority and direction of our Lord High Treasurer of England, or Commissioners of our Treasury in England for the time being, in putting in execution the several Acts of Parliament before mentioned. And you shall cause due prosecution of all such persons as shall any ways hinder or resist any of our said officers of our Customs in the performance of their duty.

12. You shall take care that, upon any actions, suits, and informations that shall be brought, commenced, or entered in the said Plantations upon any law or statute concerning our duties, or ships or goods to be forfeited by reason of any unlawful importations or exportations, there be not any jury but of such only as are natives of England or Ireland, or are born in any of our said Plantations.

13. If you shall discover that any persons or their assigns, claiming any right or propriety in any islands or tracts of land upon the Continent of America by Charters or Letters Patents, shall, at any time here-after, alienate, sell, or dispose of any of the said islands, tracts of land, or proprieties other than to our natural born subjects of England, Ireland, Wales, or Berwick, without the license or consent of us, our heirs and successors, signified by our or their Order in Council first had and obtained, you shall give notice thereof to us, or to our Lord High Treasurer of England, or Commissioners of our Treasury in England for the time being.

14. You shall take care that all places of trust in the Courts of Law, or what relates to the Treasury of our . . . . . of . . . . . , be in the hands of our native-born subjects of England, or Ireland or the Plantations.

15. And, that there may be no interruption or delay in matters of prosecution and execution of justice in our Courts of Judicature within our . . . . . of . . . . . by the death or removal of any of our officers employed therein, until we can be advised thereof and appoint others to succeed in their places, you shall make choice of persons of known loyalty, experience, diligence, and fidelity to be employed for the purposes aforesaid, until you shall have our approbation of them or the nomination of others from hence.

16. You shall, from time to time, correspond with the Commissioners of our Customs in England for the time being, and advise them of all failures, neglects, frauds, or misdemeanours of any of the officers of our Customs in our said . . . . . of . . . . . , and shall also advise them, as occasion shall offer, of all occurrences necessary for their information relating either to the aforesaid laws of Trade and Navigation, and our Revenue of Customs and other duties under their management, both in England and the Plantations.

[Read this day. Com. Book.]

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(*ff.*) 3 April 1697.—Letter of date from John Sanson to Mr. Relfe, as follows:—

Sir,

I am commanded to transmit the enclosed Report to you, to be laid before the Right Honble. the Lords Committees appointed to consider the state of the Trade of this Kingdom, and to desire you to acquaint their Lordships that, if there be occasion for any of this Board to attend them thereupon, the Commissioners will readily give obedience to their Lordships' commands.

I am, Sir,
Your most humble servant,
Jno. Sanson.

Custom House, London.
3 April 1697.

Endorsed To Mr. John Relfe.

(*ff*[1].) 3 April 1697.—Cover of preceding, addressed to Mr. John Relfe, one of the Clerks at the House of Peers. *Endorsed* Report touching Mr. Penn's Papers. *Endorsed* also is the following: "Memorandum, The Committee never met since I received this Packet. *Mem.*: I showed it to the E. Rochester, who was Chairman."

(*ff*[2].) 3 April 1697.—Report touching Mr. Penn's Papers as follows:—

To the Right Honble. the Lords Committees appointed to consider the State of the Trade of this Kingdom.

May it please you Lordships,

At our attendance on your Lordships, the 15th of March last, we received your Lordships' verbal orders to consider a Paper then presented by Mr. Penn, who, taking it back at that time to enlarge upon in some points, did on the 19th send to us the Paper, which is hereunto annexed; and, some part thereof seeming to need explanation, we made a few queries thereupon on the 24th, and received an answer thereto from the said Mr. Penn on the 27th of the same month, copies whereof are hereunto likewise annexed; and, upon consideration of the four particular heads contained in the said Paper, we do agree according to the purport of the two last:—

That the runaways of one province ought not to be protected in another.

And that the people in the several Colonies, as to their manners, should by the respective magistrates be kept to a stricter discipline.

And whereas the 1st and 2nd Particulars, as they are now explained, do point at two grievances, namely—

That duties are laid in his Majesty's Province of New York upon all goods of the growth and manufacture of England passing up the New York river to the proprietics of the Jerseys.

And that very heavy duties are exacted in Maryland upon all English goods for but crossing that Colony, when they are consigned to Pennsylvania, and upon all liquers brought to Maryland from Pennsylvania.

We have, as to the first, discussed with Mr. Brooke, Collector of New York, now in London, and he having, in the annexed Paper under his hand, acknowledged that there is a duty of 2 per cent. levied on such goods going to the Jerseys, showing the long

continuance of that practice, the authority for it, and necessity thereof, we humbly pray your Lordships will please to be referred thereunto.

But, as to the 10 per cent. and other duties which are alleged to be levied in Maryland by a new Act of Assembly there, we have neither seen that Act, nor do we understand the motives whereon it may be grounded, but are informed that the same lies now, by reference from his Majesty, before the Attorney-General for his opinion; and, it being probable that letters have, on occasion of the said Act, been written from that Colony to the Right Honble. the Lords Commissioners of the Council of Trade, we must likewise humbly pray your Lordships to be referred to what shall be reported to his Majesty by those who are more particularly authorised in a matter of this weight; humbly observing to your Lordships that this complaint is not in the former case for duties levied on goods which go in ships consigned to Pennsylvania, which have free passage up the river, but for such goods as go hence in ships bound to Maryland, and which after go by land carriage to Pennsylvania; and how far the distinct constitution of Colonies may give them title to levy duties upon each other, we are not able to judge; yet the aforesaid Mr. Brooke doth upon the second head say something to the reason of this practice.

We do likewise humbly observe to your Lordships that the laws of Trade and Navigation made in England, which may seem to have any relation to the matters in question, are the Act of Navigation made in the 12th year of the reign of King Charles II., the Act for encouragement of Trade made in the 15th year of his said Majesty's reign, the Act for regulating the Plantation Trade made in the 22nd and 23rd years of his said Majesty's reign, the Act for the encouragement of the Greenland and Eastland Trades and for better securing the Plantation Trade made in the 25th year of his said Majesty's reign, and the Act made in the 7th and 8th years of his present Majesty's reign for preventing Frauds and regulating Abuses in the Plantation Trade; which laws do more particularly provide that no ships but such as are duly qualified, both as to build and navigation, be permitted to import or export any goods or commodities to or from the Plantations. That, for the enumerated Plantation commodities, vizt., tobacco, sugar &c., shipped or laden for England, Wales, or Berwick, bond be given to carry the same to England, Wales, or Berwick, accordingly; and, for such of the said goods as shall be shipped for some other of the Plantations, that bond be in like manner given to carry the same to some other of the Plantations and pay the duties; and no European goods but such as are excepted in the aforesaid Act for Encouragement of Trade are to be imported into any of the Plantations, but from England, Wales, or Berwick only, and ships duly qualified and navigated. All which is humbly submitted to your Lordships' consideration.

Custom House, London.
3 April, 1697.

Ben. Overton.
Robert Southwell.
Walter Yonge.
C. Godolphin.

(*ff*[3].) Paper presented by Mr. Penn to the Commissioners of Customs, referred to in their above Report and appended thereto, vizt.:—

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That the inhabitants of the several Colonies may be duly encouraged to improve trade and be upon a better understanding among themselves, I humbly offer—

First, That no province shall obstruct or clog the passage of any ship or goods coming from England through it, that are consigned to another, with any Custom or duty; for that it plainly incommodes and discourages the King's subjects, and puts them upon shifting for themselves without the need of such goods, and so far prevents the consumption of our English growth and manufacture, and hurts thereby trade and navigation; besides that it is unwarrantable and highly impeachable by the law of England.

Secondly, That trade should be free of the growth of the provinces, as it is here in England, from county to county, where the laws of Navigation forbid it not; which will cure and prevent animosities on that account, and the most industrious will not be punished for their diligence by the idle.

Thirdly, That one province shall not protect the runaways of another, be it for crimes or debts, but that justice shall be done according to the constitution of the several provinces.

Lastly, That the people be under a stricter discipline in their manners, yet cherished, and kindly as well as justly used by their respective magistrates.

(*ff*[4].) Paper appended to above Report, as follows:—

Preamble.

What misunderstandings have been amongst the inhabitants in any of the Colonies and which of the Colonies, whereby trade hath been discouraged?

First.—How or wherein one province hath obstructed or clogged the passage of any ship or goods coming from England through it, that are consigned to another, with any duty?

What is meant by a freedom of trade of the growth of the province, and what from county to county?

Berkeley Street, 27 March 1697.

To the Queries made me I answer in their order:

1. In East Jersey, though a distinct government, yet ships bound thither have been compelled to New York, and a Custom exacted, to the great discouragement of trade, since, where one ship has been sent to that Province because of that force, ten have been hindered that would have otherwise been employed to that Province. Next, this Custom has been exacted from such ships by laws made in New York without the consent of the inhabitants of East Jersey, as if New York had a representation of Jersey in that Assembly, though none of the members of it were parties to such an Act of Assembly, which is a disposition of property that is very irregular and no ways English, and vexes the inhabitants of East Jersey, and more those of West Jersey, that lies quite on another river and bays, and about an hundred miles from that leading to New York and East Jersey; and, which is more tortious and unwarrantable, the Governor and Assembly of Maryland have put a Custom of 10 per cent. upon all English goods that are consigned to Pennsylvania in the fleet bound hence to Maryland for tobaccos, to the great discouragement of trade, as well as injustice to the King's subjects in Pennsylvania and territories, for hereby we are destitute of supplies and are denied the freedom of the King's highways, which in the Charter of that Province the King has provided for himself and subjects.

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Were the goods sold there, the pretence were more allowable, but they are carried to Pennsylvania without opening; yet the impost is 10*l.* per cent., not only without precedent, but not defensible by law, also 4*d.* if not 9*d.* per gallon upon all liquors that are carried out of Pennsylvania to Maryland, and which is so rigorously exacted that passengers, which come that way from Pennsylvania for England with the fleet at its return must pay for what they bring for passage only, and their chests are rifled to search for drink, and of some 10*s.* demanded, and the least they demand (and will have) is half-a-crown, things never heard of in America, and a severity that cannot but breed bad blood between the people of those Provinces, and which it is prayed may be redressed, and that with the first.

If the people of Pennsylvania should deny those of Maryland requisite provisions to supply the ships bound thence home with tobaccos, in retaliation, the consequence would not be well; the reason at bottom for this was our making a law against tobaccos being brought into Delaware from Maryland, the thing we have of late been so much troubled about here at home, which it is our interest to forbid, as well as otherwise our safety, and I have reason to believe agreeable with the Commissioners of the Customs' desire.

2. What has been said before answers the second Particular inclosed to me.

3. By a free trade from one Colony to another, as here from one county to another, of the growth of the Provinces, I mean that whatever is not made to pay a Custom to the King by the laws of Navigation may be sold without paying any Custom, be it of the growth of the Provinces or English. Provisions have ever gone free from one Colony to another; so have English commodities, one being sometimes better stored than another, but this I leave to the Commissioners of the Customs to please themselves; only the first point is of that moment that, if care be not taken to prevent such unneighbourly doings, trade must suffer, and the King's subjects live ill towards one another, which pray communicate to the Board and quicken the remedy, and you will very much oblige—

Wm. Penn.

An Answer to the Paper given in to the Honble. the Commissioners of the Customs by Mr. William Penn.

New York has for several years struggled under the burthen of an expensive war against the French of Canada and their Indians, and, without much assistance from its neighbours, has been the barrier to most of the English Plantations on the Continent of America, towards the defraying the charge of which, and supporting his Majesty's Government there, the inhabitants, by Act of General Assembly, have laid a certain duty on all goods coming from England, and granted it to his present Majesty as part of his revenue in that Province. The like was also done by them in the two last reigns, and great care was always taken (for that reason) none of the adjoining Colonies should obstruct the trade of New York, as appears by the following two Articles given for many years past and continued as part of the King's Instructions to every Governor or Collector sent to that Province.

Part of the Instructions to the Governors:—

And whereas we are informed that some of the Colonies adjoining to our said Province, under colour of grants, or upon some

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other groundless pretences, endeavour to obstruct the trade of New York and Albany, you are not to suffer any innovation within the River of New York, nor any goods to pass up the same but what shall have paid the duties at New York, to the end the chief benefit of that trade may be preserved to the traders and inhabitants of New York, the same being agreeable to the laws of our said Province and to the former practice, as well as necessary for the collecting those Customs and other duties which are to be raised for the support of our Government there.

Part of the Instructions to the Collectors:—

Whereas we are informed that some of the Colonies adjoining to our Province of New York, under colour of grants or upon some other groundless pretence, endeavour to obstruct the trade of New York and Albany, you are not to suffer any innovation within the River of New York, nor any goods to pass the same but what shall have paid the duties at New York, the same being agreeable to the laws of our said Province and to former practice, as well as necessary for the collecting those Customs and other duties which are to be raised for the support of our Government at New York.

Pursuant to these Instructions, the Jerseys have been and now are hindered from a free trade within the River of New York, for, the Jerseys being only divided from New York by that River, as London is from Southwark, should they be allowed a free trade contrary to the said Instructions, they would privately furnish New York with dutiable goods from thence, and so obstruct the trade, ruin the revenue, and defeat the good ends to which it was intended. If the clog of a small duty of 2 per cent. on English growth and manufacture did (as alleged) prevent their consumption, that would certainly be more apparent in New York than any other Plantation; but the contrary is evident by the great quantities yearly sent thither and the good markets they find. What is said to be highly impeachable by the law of England, I humbly submit to your Honours' better judgment.

To the Second:—If the several Colonies on the Continent of America were united in their public expense, laws, and interest, as the several counties of England are, the proposal would be agreeable to reason; but, where the constitutions of government, laws, and interest all jar, as in those Plantations, how should a free communication of the staple or principal produce of one province be expected by another. The merchants want returns for England, and it is the interest of each province to keep for the traders that dwell therein such part of its produce as may best supply them, nor is there any animosity caused thereby that I could ever observe.

To the Third:—This is well proposed, but the ways and means to effect it are wanting.

Lastly:—The advice is very good, and to be wished by all honest men it were put in execution.

All which is humbly submitted by your obedient servant—

CHAS. BROOKE.

1116. Feb. 11.—Creditors' Relief (Compositions) Act.—Petition of John Devink and Samuel Watts, on behalf of themselves and others, creditors of George Briggs and Alexander Hume, bankrupts. The Bill

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will give an opportunity to Briggs and Hume and other bankrupts, by fraudulent conveyances, willing concealments, and other evil practices, to defraud their creditors. Pray to be heard by Counsel against it. [Read this day and ordered to be heard. L. J., XVI. 95. The Bill was brought from the Commons on 22 Dec. Counsel were heard at the Bar for and against it on 24 Feb. *ib.* 46, 104. *Mr. Serjt. Darnell* (for Sir Thomas Meeres and Sir E. Smith). If the Counsel for the Bill consent to waiving the last clause I have little to say. *Sir Thomas Powys.* We submit to it if your Lordships think fit. *Mr. Serjt. Wright* (for Weight and others). We hope you will reject the Bill in general, it being against natural justice to put one man's business into another man's power. We hope at least to have relief in this Bill against Simkins. *Sir Thomas Powys* heard against Mr. Serjt. Wright and the petitioners he is for. It is in the power of one wilful man to prevent the agreement and destroy the rest of the creditors. The Act hath not fully provided for the oath of the debtor or bankrupt, and I have a proviso for this. We desire that the number may be inserted as well as the value. *Sir Bartholomew Shore* heard for the merchants of London. *Mr. Filmer* heard in relation to Sir Robert Vyner's creditors. There cannot be any composition for those that are dead. MS. Min. Royal Assent 1 April following. L. J., XVI. 142. 8 & 9 Will. III. c. 18, Fol. Ed.]

Annexed.

(*a.*) 18 Feb. 1696–7.—Petition of Sir Thomas Meres, Sir Edward Smith, Sir Edward Betenson, William Fenwicke, Esq., and others, creditors of Sir Robert Vyner, deceased. The late Sir Robert Vyner, Knight, of London, owing several thousand pounds, a Commission of Bankrupts was awarded against him, and several proceedings had thereupon. He is since dead, and his son Thomas, his executor, possesses his estate. The Bill, if not amended, will greatly prejudice Petitioners and others, who are creditors by bond of the late Sir Robert, and who prosecute for their debts; and, although it appears to be a general bill, yet it seems to be levelled against Petitioners in particular. The bill is also in several places defective, and may be of a general inconvenience both to debtors and creditors. Pray to be heard by Counsel against the Bill. *Signed* by above-named, and also by Thomas Bury and Robert Partridge. [Read this day and ordered to be heard. L. J., XVI. 99.]

(*b.*) 18 Feb.—Petition of Edward Weight, Arthur Marshall and William Buckle, on behalf of themselves and several other creditors of Francis Simkins, late of London, Haberdasher. The Bill tends very much to the prejudice of Petitioners in particular, and will be of very great mischief and inconvenieney to trade. Pray to be heard by Counsel against the Bill. [Read this day and ordered to be heard. L. J., XVI. 99.]

(*c.*) 22 Feb.—Petition of several Merchants and Traders of London on behalf of themselves and others, being creditors of several persons who have been necessitated to withdraw themselves by reason of losses and misfortunes. Oftentimes, in cases of compositions or agreements between creditors and debtors, some few dissenting creditors, their executors, administrators, guardians or trustees, obstruct such as are reasonable and proposed as well for the benefit of creditors as debtors. Petitioners, from their long experience of trade, conceive the Bill is very necessary to pass into law. Pray to be heard by

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Counsel in favour of the Bill. *Signed* by the Mayor, (Edw. Clarke), and 84 others. [Read this day and ordered to be heard. L. J., XVI. 101.]

(*d.*) 24 Feb.—Petition of Sir Richard Levett, Knight, Alderman of the City of London, Phillip Bridal, Esq., William Withers, Esq., Samuel Brockenborough, Joshua Sabin, and others, creditors of Sir Robert Vyner, deceased, by bond, on behalf of themselves and many others, being the majority in number and value. Sir Robert Vyner, being in 1671 by an overruling hand disabled from satisfying all his creditors, did many years since, as far as his personal estate extended, partly by money and partly by assignments on a patent granted to him by Charles II, pay above three-quarters of his creditors in full with interest, and would have paid all of them by sale of his lands, had not some few obstinate ones, about 12 years since, sued forth a Commission of Bankrupt against him; and, although, after an expensive prosecution for two or three years, the Commissioners declared him not proved a bankrupt, and no further proceedings have since been had thereupon, yet the title of his freehold estate was made doubtful and purchasers unwilling to buy it. Since then Sir Robert in his lifetime made fair proposals to his creditors, which were signed by above three-quarters of the number and value of them who remained unsatisfied, and by his will directed his lands to be sold for satisfaction of all his creditors, which his executor has been unable to perform for want of a general compliance to make good the title. Petitioners and many other creditors have for more than 25 years been kept from the benefit of many good offers made to them by the executor, and have had no satisfaction of their debts. Some few of Sir Robert's creditors, persevering further to entangle and delay Petitioners and the rest of the creditors, have petitioned their Lordships to be heard by Counsel against the Bill, designing to clog it with such clauses as may prevent its passing. Pray to be heard by Counsel in favour of the Bill. *Signed* by above-named Petitioners and also by Eliz. Thorne, Edw. Pickering, Thom. Theed, Reb. Cartwright, John Gerard, Roger Gill, Robert Goodall, and Henry Soames. [Read this day and ordered to be heard. MS. Min.]

1117. Feb. 11.—Fanshaw *v.* Fowlis.—Petition and Appeal of Simon Fanshaw, Esq. Appellant in 1688 brought a Bill in the Exchequer, as administrator to Sir Simon Fanshaw, his uncle, against Dame Ann Robinson, executrix of Sir Lumley Robinson, and Geoffry Cobbe, as representative of Anthony Deane, to recover a debt due on bond from Anthony Deane, late of the Inner Temple, Esq., in the penalty of 400*l.*, for payment of 200*l.* Anthony died seized of an estate sufficient to pay his debts, and particularly of a chattel estate in Suffolk, being a lease of 200 years, valuable at 400*l.* a year, which was purchased by Sir Lumley, who retained money for payment of creditors. Ann Robinson married Fowlis, and on her death Appellant revived his Bill against him as her trustee, but it was dismissed, at the Hearing last Michaelmas term, both against Fowlis and Cobbe. Appeals against this dismission. *Signed* by Appellant. *Countersigned*, Nicho. Courtney, Geo. Ireton. L.J., XVI. 96. [The Cause was heard on 29 March, when *Mr. Dobyns* and *Mr. Filmer* appeared for the Appellant and *Sir*

Thomas Powys and *Mr. Dodd* for the Respondents. The Appeal was dismissed. L. J., XVI. 138.; MS. Min.] 1696-7.

No. 1117.

Annexed:—

(*a.*) 11 March 1696.—Petition of Sir William Foulis, Baronet, one of the Respondents, for further time to answer. *Endorsed* as read this day. L. J., XVI. 119.

(*b.*) 20 March 1696.—Answer of Sir William Foulis, Baronet. Knows nothing of the bond mentioned. The Appellant had neither just cause of suit nor proper parties to the Bill in the Court of Exchequer, and the decree was just and equitable. *Signed* Wm. Foulis. *Countersigned* Sam. Dodd. *Endorsed* as brought in this day.

(*c.*) 26 March 1697.—Answer of Geoffry Cobbe. The bond was given by Deane in respect of the purchase of a manor in Yorkshire, but, the Earl of Norwich having refused to complete the bargain, his daughter, Lady Katharine Scott, in trust for whom the bond was given, promised to get Sir Simon Fanshawe to return it. He however refused to do so, pretending that he had lent money to Lady Katharine Scott, and assigned it to his tailor. The money left in Dame Ann Robinson's hands was to pay off incumbrances only, and the pretended debt was not mentioned in the schedule to Anthony Deane's will. The Court of Exchequer ordered what was left to be paid to Respondent as executor of his wife, and this has been done. *Signed* Geoffry Cobbe. *Countersigned* D. Deane. *Endorsed* as brought in this day.

1118. Feb. 11. Cock's Estate Bill [H.L.].—Amended* Draft of an Act for the vesting and settling part of the estate of William Cock, of Dutchland, in the County of Bucks, Gentleman, in and upon trustees, to be sold for payment of his debts. Whereas William, son and heir and administrator of the personal estate of the late John Cock, citizen and draper of London, by lease and release, dated 22 and 23 April 1681, conveyed to George Holgate, citizen and haberdasher of London, and William Coke, of Lincoln's Inn, Esq., a messuage and farm, formerly occupied by George Cock, or his assigns, certain closes, &c., called Little and Great Homesfield, Hallwick, Whitfield, and Whitfield Bottom, containing in all 40 acres, in Wendover, co. Bucks, Tiddenden Spring or Tiddenden Grove, containing 18 acres, in Wendover Forens, and all other tenements, &c., sometime in the possession of Elizabeth Withered or her assigns, situate in the said wood or coppice, certain lands in Wendover Forens adjoining Cock's Wood, Cock Crown *alias* Cock's Crown or Cock's Grove in Wendover, containing 11 acres and more, and all other lands &c. granted to John Cock or his assigns by William Adams by a deed of feoffment of 18 June 1658, together with all reversions and remainders of all the premises (all which lands &c. were mortgaged to the Hon. Roger North, Esq., for a term of years not yet expired, for security of 500*l.*), to have and hold the premises to Holgate and William Coke and their heirs to the use of William Cock, and after his death to the use of Elizabeth, his intended wife (whom he afterwards married and who is since dead), for her jointure, and after her death to their first son and his heirs male, with remainder over in tail male to all the after-born sons, and, failing such issue, to the use of Holgate and Coke for 500 years, in trust for raising 1,500*l.* for the portions of such daughters as should be of that marriage, and, after

* The principal additions, taken from the Annexes below, are shown by italics.

1696-7. — No. 1118. raising that sum, then in trust for William Cock and his heirs, with remainder to the use of his right heirs for ever, but with power to William Cock during his life or by his will to charge the jointure lands after his said wife's death with 1,500*l.* for the portion of any younger child of the marriage; and whereas Elizabeth is dead, leaving issue Timothy, her only son, now about 14, and Elizabeth her only daughter, now about 13; and whereas William Cock has spent above 1,100*l.* towards discharging the several mortgages mentioned in the deed of settlement and improving the estate so settled, whereby the latter is now worth above 1,100*l.* more than when the settlement was made, while William Cock is utterly disabled to pay off Ursula Cartwright's mortgage and other debts, except either by committing great waste (as by the deed he may do) upon the settled lands, or by selling part of them; and whereas Timothy and Elizabeth are willing that the debts should be discharged by sale rather than by wasting the estate; *and whereas William Cock is content to be debarred from committing waste, and agrees to charge the lands with only* 500*l.*, *instead of* 1,500*l.*, *as portion for his daughter;* The Bill therefore enacts that the said lands and reversions &c. be vested in *the said William Coke and in Joseph King, citizen and haberdasher of London*, on trust to sell the same to the best purchaser and discharge, first Ursula Cartwright's mortgage, and then all such other debts of William Cock, not exceeding *two hundred pounds*, as he shall direct. *All the settled estate shall be freed of all waste in future, and William Cock may charge it (except the lands now settled on Coke and King to be sold) with* 500*l. and no more, as a portion for his daughter Elizabeth.* Provided that Coke and King may deduct from the purchase money all reasonable costs and charges touching the premises. Saving &c. [Read 1ª this day. L. J., XVI. 95. Dropped in the Commons.]

Annexed.

(*a.*) 8 March.—Lords' Amendments to the Bill. [Made in Committee 6 March, and reported this day. Com. Book. L. J., XVI. 114.]

(*b.*) 8 March.—Clause added, as an amendment, freeing the estate from waste in future, &c. The substance of it is given above. [Agreed to in Committee on 6 March, and reported this day. Com. Book. L. J., XVI. 114.]

1119. Feb. 15. F. Creswick.—Allegations of Francis Creswick against John Farrington, late Marshal of the King's Bench Prison. Creswick became a prisoner in the King's Bench Prison on 9 Oct. 1692, and, to obtain the liberty of the Rules, entered with two friends into a bond and judgment for some thousands of pounds to Farrington or his son, into which bond Farrington caused to be foisted a clause for Creswick's payment of 10*s.* a week for chamber-rent, contrary to his agreement or knowledge, and notwithstanding the fact that Creswick lodged in the Rules and not in the prison. Creswick paid all his fees and chamber-rent to Farrington, as appears by his Account, an affidavit whereof was made in the King's Bench Court; but Farrington, nevertheless, would often confine him close to prison, and, before admitting him to the Rules again, would extort bonds, &c. from him to the value of above 250*l.*, promising not to put them in suit again, while all the time he never pretended that anything was due to him, and never gave Creswick any account, nor was ever troubled or complained of by Creswick's creditors. Creswick being about to be removed by one of his creditors to the Fleet Prison on 30 Oct. 1695, Farrington required him to give security to remove himself back to the King's Bench Prison, and, on his

refusal, charged him with two executions, one of 200*l.* and the other of 50*l.*, which he had extorted from him, and he now lies in the Fleet Prison so charged, while Farrington refuses to deliver up the security and bonds, &c., and threatens to put them in suit. [Read this day. Ordered that the Petitioner be heard on the 19th inst., if he please. No order to be issued. MS. Min. Nothing further recorded. No entry in L. J.] 1696–7. — No. 1119

Annexed.

(*a.*) 15 Feb.—Account between Creswick and Farrington, referred to in preceding, showing a surplus of 25*s.* due from Farrington.

(*b.*) Cover of preceding, addressed "For the Lord Marquis of Normanby." *Endorsed:* Creswick Papers.

1120. 15 Feb.—Fallows' Estate Act.—Amended Draft of An Act to enable William Fallows, an Infant, to sell an Estate in the County of Chester, to pay debts secured by mortgages. The only Amendment is to limit to 100*l.* the overplus payable to Alice Fallows, in the last clause but two. No Amendment in the Commons. Com. Book, 25 Feb. [Read 1ª this day; Royal Assent 1 April. L. J., XVI. 97, 142. 9 W. III. c. 41 in Long Cal.]

Annexed.

(*a.*) 25 Feb.—Engrossed certificate of consent to the Bill, signed by the following: Mary Fallows, William Tench, Rebecca Tench, Elizabeth Fallows, William Fallows, Alice Fallows, John Bradshaw, and Alice Bradshaw. *Dated* 4 Jan. [Produced and read in Committee this day. Com. Book.]

1121. Feb. 16.—Silks (Persia and East Indies) Prohibition Bill.—Petition of the Churchwarden, Overseers of the Poor, and ancient inhabitants of the hamlet of Bethnal Green in the parish of Stepney, in the County of Middlesex, setting forth as follows:—"That the poor of our hamlet are grown extreme numerous amongst us, in regard many weavers and others employed in and about the silk and silk and woollen manufacture have entered themselves into his Majesty's service, as well by sea as land, and left their wives and families a great charge upon us. That the weaving trade, and several other trades depending thereupon, are in a manner extinguished amongst us, which formerly used to be the chief maintainers and supporters of the necessities of our poor, the importing of wrought silks, Bengals, and printed and stained calicoes from India and Persia being the chief occasion thereof. That several of our said inhabitants with their families have been driven to such extraordinary extremities by reason of the decay of the weaving trade as to eat horseflesh and grains to support nature. That a great number of weavers now out of work, who formerly used to contribute to the necessity of others, and paid their taxes rated upon them, are become very great objects of our charity, and ought to be relieved by us, were we in a condition suitable to administer relief to them, as their necessities require; and that several that were lately officers amongst us, through the great decay of trade are become chargeable to us, and we, the inhabitants aforesaid, being willing to supply the necessities of the aforesaid poor, have trebled our taxes over and above what we formerly used to do. Forasmuch, therefore, as the maintenance of our poor, and those other taxes incident to tradesmen amongst us, relies almost wholly upon those persons using and exercising the weaving trade and other trades depending thereupon, we most humbly entreat your Lordships that you would be pleased to use your utmost endeavours that some ways and means may be found out this present Session for the encouraging the said weaving trade and other dependencies thereon, and for restraining

1696-7. — No. 1121. the importing of the aforesaid wrought silks, Bengals, and printed and stained calicoes, so destructive to the said weaving trade, as in your grave wisdoms shall seem meet." Twelve signatures. [Read this day. MS. Min. No entry in L. J. The Bill was brought from the Commons on 8 Feb. L. J., XVI. 92.—On 16 Feb. Counsel and merchants were called in and heard.—*Sir Thomas Powys* heard for the East India Company. If these goods are prohibited here, no question but other places will bring them hither and we must pay more for them. *Mr. Dobyns* also heard. *Mr. Phipps* (for the Wiltshire and Gloucestershire clothiers). We wonder at the impudence of the appearing for the Bill: The arguments used last year are the same against the Bill as now. *Mr. Gardiner* and *Mr. Barrey* heard for the Bill. *Mr. Savin*, a silkman, heard for the weavers. There are abundance of trades in the several counties of this Kingdom concerned in the manufacture of our wool. *Capt. Lekens* says that trade which does not export our manufactures is prejudicial to England and it must be considered how far the East India trade does this. The cloth carried to India is not fit for that country: the cloth lies on their hands there and they send this to Persia and so hinder the Turkey trade. *Mr. Crosley*, a weaver of London, a Norwich man, and "another" heard against the Bill. MS. Min. L. J., XVI. 99. In Committee on 20 and 22 Feb. Amendments were made extending the operation of the Bill to all wrought silks imported and all calicoes printed or stained "out of this realm" (MS. Min.). The Commons disagreed to these Amendments (1) as being likely to injure the export trade and (2) as imposing additional penalties, which imposition ought to originate in the House of Commons. Numerous Conferences took place but the Lords insisted upon their Amendments and the Bill was lost. L. J., XVI. 116, 128, 129, 132; C. J., XI. 720, 742, 752, 755, 756.].

Annexed:—

(*a.*) 22 Feb.—Petition of the Gloucestershire Clothiers, in behalf of themselves and very many others. Petitioners set to work many thousand handicrafts people in making the woollen manufactures of this Kingdom, who thereby get a competent livelihood. The East India Company have of late years bought up and sent to the East Indies great quantities of woollen cloth, to the preserving many hundred families, as well in this as in other countries, from ruin, who must otherwise have perished, when some time since the trade of woollen cloth was at a stop by the great obstruction occasioned by the War, and scarce any bought up by other persons. The said Company yearly continue to export great quantities of cloth, whereby Petitioners are enabled to employ multitudes of poor people, who otherwise must stand still, and thereby be reduced to great necessities. The Bill will be of very ill consequence to Petitioners, in regard it cuts off a great branch of the Company's trade, and is thereby likely very much to diminish, if not put a full stop to, their exportation of the woollen manufacture, because, as Petitioners are informed, a considerable part of these silks and goods are purchased with the woollen goods sent out from hence thither. Crave leave to betake themselves to their Lordships for succour this year as they did the last. *Signed* by Daniel Badgen and 97 others. *Endorsed* as read this day; nothing ordered on it. MS. Min.; no entry in L. J.

(*b.*) 5 March 1696-7.—Message from the Commons for a Conference on the Bill. L. J., XVI. 112. *In extenso.*

1696-7. — No. 1121.

(*c.*) 5 March.—Commons' Reasons for disagreeing to Lords' Amendments. [Communicated at the Conference this day. C. J., XI. 728. *In extenso.*]

(*d.*) 12 March.—Lords' Reasons for insisting on their Amendments. [Reported this day. L. J., XVI. 121. *In extenso.*]

1122. Feb. 18.—Writ of Summons (E. Albemarle).—Writ of Summons to Arnold Joost de Keppel, E. Albemarle. *Dated* 16 Feb. 1696–7. [Introduced this day. L. J., XVI. 99.]

1123. Feb. 19.—Stockley's Estate Act. Engrossed certificate of consent to the passing of the Bill, signed by Deborah Stockley, Mary Stockley, Joseph Cobham, and Thomas Cobham; *Dated* 8 Feb. 1695. Undersigned also is the consent of John Parker, John Heyes, Richard Stockton, and Joseph Cobham to act as trustees. [Produced and read this day in Committee on the Bill. Com. Book. The Bill was brought from the Commons on 28 Jan., and received the Royal Assent on 8 March. L. J., XVI. 84, 115; 8 & 9 W. III. c. 23 in Long Cal.]

Annexed:—

(*a.*) Feb. 19—Account of debts owing by Jeoffrey Stockley, late of Morley, co. Chester, and of the parties to whom the same are owing. [Appended to preceding.]

1124. Feb. 22.—Offices (Sale and Purchase) Bill.—Commons' Engrossment, marked for Amendment,* of an Act to prevent the buying and selling Offices and Places of Trust.

i. For prevention of Corruption and ill administration in the State by [offices] *officers* and Ministers in Courts and places of Trust, who ought faithfully to do justice and prefer to places and stations of trust men deserving and of abilities and no others; Be it enacted by the King's most Excellent Majesty &c., That, if any person at any time after the first day of June, one thousand, six hundred, ninety-seven, shall bargain for or sell any place, employment, office, or offices, ecclesiastical, civil, or military, or deputation of any place, employments, office, or offices, or reserve any part or parcel of the profits of any place, employment, office, or offices to himself or to any other, directly or indirectly, or shall receive, have, or take any money, fee, reward, gratuity, or profit, directly or indirectly, by himself or by any other, for any place, employment, office, or offices to himself or to any other, directly or indirectly, shall lose and forfeit all his and their right that they have had to any place or places, and shall for the future be incapable of enjoying any place of profit or trust whatsoever.

ii. And be it enacted, by the authority aforesaid, that, if any person or persons, from and after the said first day of June, by himself or by another, directly or indirectly, shall make any such bargains, sales, promises, bonds, or obligations, then that all such bargains, sales, promises, bonds, or obligations shall be void in law to all intents and purposes, as if the same had never been made, and the person so offending shall forfeit treble the money given for such place or places, together with costs of suit, one half to the King, the other half to the informer, which shall be recovered by action of debt, bill, plaint, or information in any of his Majesty's Courts of Record at Westminster, wherein no essoign, protection, privilege or wager of law, injunction,

* The Amendments in the text, shown by italics in the case of additions, and by square brackets in the case of omissions, are taken from the Paper of Amendments (Annex (*e*) below). The remaining Amendments appear in the Clauses added to the Bill (Annexes (*a*) (*b*) and (*c*) below).

1696-7. — No. 1124. or order of restraint, nor any more than one imparlance, shall be any ways granted or allowed.

iii. And be it further enacted, by the authority aforesaid, that no person or persons who [have obtained] *from and after the said first day of June shall obtain* the actual possession and enjoyment of any place, employment, office or offices, or part or parcel thereof, shall lose or be dispossessed of the same because of any money, fee, reward, gratuity, or profit by him or them given, or because of any promise, bond, covenant, or assurance by him or them given for the same, anything in this Act or any other to the contrary notwithstanding.* *Parchment Collection.* [Brought from the Commons this day. L. J., XVI. 102.

On Feb. 26 Counsel were heard for the Officers of the City of London on their Petition against the Bill. (*See* No. **1126**). *Sir Thomas Powys.* There are a great many offices in the City that no law says they should not be sold. *Sir Bartholomew Shore.* We think there is no reason for this Bill. It will be hard to deprive these gentlemen of their freeholds, and they are not within the Statute of Edward VI. *Sir Thomas Powys* heard to name the several offices concerned herein. They offer the Order of the Lord Mayor for their attendance. The House then went into Committee. (Lord Cornwallis in the Chair.) A Clause for hereditary offices was agreed to (annex *a*), and a Proviso offered for the City of London was rejected.

On Feb. 27 *The Lord Chief Justice of Common Pleas* (for all the judges). He desires such a provision as is in the former Act, Ed. VI. I think I have as good a title as if an Act of Parliament had confirmed me in it. This is not my concern only, but also of the Crown. *The Lord Chief Baron.* The Clerks of Assize, if they fall in the circuit, they are in our gift. I hope I have done nothing to deserve displeasure. This is a concern of a place. I humbly submit, as to the Clerks of Assize, it is an office. *Mr. Justice Turton, Mr. Justice Powell, and Mr. Baron Powys* heard. *Sir Tho. Powys* (for the Mayor and Court of Aldermen.) The disposing the offices tends to a public benefit which is for the honour of the Kingdom. These are not offices but employments which the Bill reaches. *Sir Bartho. Shore.* We hope this may continue as it has done for 300 years last past.

On March 1.—The Clause in the Act of Edward VI. for exempting the judges, and the Act R. II. 12 against selling offices, were read. The *L. Chief Justice Common Pleas* was heard as to an equivalent, and their keeping the places in their own execution, and a Clause was offered for an exception to the judges. After debate the Proviso was inserted (annex *b*.)

On March 4.—A Clause offered for the City of London was rejected, a Proviso concerning offices of inheritance agreed to (annex *a*) and the other Amendments (annex *e*) were made. (MS. Min.)

On March 10.—The Bill was recommitted, and a Clause in relation to deputies of officers was read and agreed to (annex *c*.) The Bill was reported, and all the Amendments agreed to except the 1st Clause marked (A), which was rejected. (MS. Min.; L. J., XVI. 118.)

The Bill was returned to the Commons on 11 March. (L. J., XV. 120.) They disagreed to the three Clauses added by the Lords, and a Conference took place on 11 April (*ib.* 148.) A Report was made, but the Prorogation interrupted the consideration of it (*ib.* 151, 161.)]

Annexed.

(*a*) 26 Feb.—Amended draft of Proviso A:—Provided always that this Act or anything therein contained shall not in any wise

* Here are noted to follow, in Annex (*e*) below, the three Provisos A, B, and C.

extend to any office or offices, place or places of trust, *which are now of inheritance*, whereof any person or persons is or shall be seized of any estate of inheritance. [Read and agreed to this day, and on March 4. (MS. Min.) Rejected on March 10, when the Bill was reported after being re-committed. (L. J., XVI. 118.; MS. Min.) It appears among the Amendments disagreed to by the Commons. (C. J., XI. 779.)]

(*b*) 1. March—Proviso B:—Provided always and be it enacted by the authority aforesaid that this Act or anything therein contained shall not in any wise extend or be prejudicial or hurtful to any of the Chief Justices of the King's Courts, commonly called the King's Bench or Common Pleas, or to any of the Justices of Assize that now be, or hereafter shall be, but that they and every of them may do in every behalf, touching or concerning any office or offices to be given or granted by them or any of them, as they or any of them might have done before the making of this Act, anything abovementioned to the contrary in any wise notwithstanding. *Noted*: agreed to. [Added to the Bill this day. (M.S. Min.)]

(*c*) 10 March—Amended Proviso C:—Provided always that, where any office, place, or employment may by law be executed by [any] deputy [or deputies], that in such case this Act or anything therein contained shall not extend to hinder any person having such office, place, or employment from having or receiving the fees and profits thereof [by or from such deputy or deputies or otherwise], so as such deputation be not sold contrary to the true meaning of this Act, nor consideration given for the same other than such salary or allowance as shall be made for the executing thereof. [Added to the Bill this day in Committee on re-commitment. (L. J., XVI. 118.; MS. Min.)]

(*d*) Engrossment of three last Provisoes.

(*e*) Lords' Amendments to the Bill. [*See* text of Bill above and notes thereto.]

(*f*) Commons' Reasons for disagreeing to Clauses A. B. C. added by the Lords. (C. J., XI. 779, *in extenso*; L. J., XVI. 161.)

1125. Feb. 23.—Warburton's Estate Bill [H.L.]. Amended Draft of an Act to enable Trustees to sell the Estate of Richard Warburton, clerk, for payment of his debts and raising portions for his children. Whereas Thomas Warburton, late of Partington, co. Chester, Gent., being seized of certain lands &c. in Partington, Bollington, Withington *alias* Lower Withington, Appleton, and Hull in Appleton, of the yearly value of 140*l.*, settled the same, by lease and release, of 4 and 10 Sept. 1672, after some particular estates thereof limited to himself and Ann, his then wife, now long since determined, to the use of his son Richard for life, then to the use of Richard's sons in tail male, and in default of such issue to the use of John, his second son, for life, the remainder to his sons in tail male, with divers other remainders over in tail which are now extinct, and, for default of such issue, to the use of the said Thomas Warburton in tail male; which said premises in Appleton and Hull were charged with an annuity or rentcharge of 20*l.* a year to John Warburton during his life, to commence from the death of Ann Warburton, after whose death all the premises in Partington and Bollington were also charged with 300*l.* for the portions of Jane, Katherine, and Sarah, daughters of Thomas Warburton, to be equally divided among them, with a power reserved to Richard

1696-7. No. 1125. and John Warburton, when in actual possession of the premises situate in Partington, Bollington, Appleton, and Hull within Appleton, by virtue of the said limitations, to make a jointure not exceeding 50*l.* a year over and above all issues and reprizes to the future wife of Richard or John, as also to charge the same with 500*l.* for the use of any younger sons or daughters of either of them; And whereas Richard Warburton, on his marriage with Frances, daughter of George Woodroffe, Esq., by deeds dated 6 and 7 November 1678, settled the premises in Partington, Bollington, Appleton, and Hull within Appleton to the use of himself for life, remainder to Frances for life, to the intent she should receive 50*l.* a year if she survived him, the remainder to their sons in tail male, with other remainders over; And whereas Frances has since died, leaving Thomas, her eldest son, and Richard, Anne, and Mary, their younger children by the marriage; And whereas the charges left on the estate by Thomas Warburton the elder have proved a very great burden on the same, in respect of the restraint by the said settlement, and are much increased by interest and arrears, and will in time, if not discharged, defeat the benefit of the settlements, and the said Richard is thereby, and by other debts contracted by himself, become unable to satisfy the said debts and incumbrances or to maintain and educate his children; the Bill therefore, at the petition of Richard and John Warburton and John Gouldsmith, Esq., surviving trustee under the marriage settlement, enacts that all the said premises in Partington, Bollington, Withington *alias* Lower Withington, Appleton, and Hull in Appleton, mentioned in the deeds of 4 & 10 Sept. 1672, shall be vested in George Woodroffe, of Poyle, co. Surrey, the said John Gouldsmith, of Namptwich, George Dod, of Highfield, co. Chester, Esquires, John, Earl of Warrington, and John Byron, of Manchester, Gent., in trust, with the consent of Richard Warburton, to sell such part of them as will satisfy the original incumbrances and such debts that immediately affect the premises, and to apply 1,200*l.* for the benefit of the children of Richard and Frances, viz., 600*l.* for the three younger children, share and share alike, and 600*l.* for Thomas, the eldest son of Richard; the rest of the money raised by the sale to be applied towards paying all such personal debts of Richard to which the premises are not immediately subjected, so far as the residue will extend. Provided that the trustees shall not be charged with any sum other than what they have received, and may deduct in the first place their necessary charges and expenses out of the money raised by the sale. Saving, &c. [Read 1ª this day; sent to the Commons on 17 March, and the question that the Bill do pass negatived in that House on 1 April. L. J., XVI. 102, 125.; C. J., XI. 764.]

Annexed:—

(*a.*) March 5. Lords' Amendment to the Bill made this day. It is purely clerical. Com. Book.

1126. Feb. 24.—Offices, &c. (Sale and Purchase) Bill. Petition of several officers in the City of London, in behalf of themselves and others holding and exercising offices and places within the said city. The said offices and places have been time out of mind disposed and transferred from one to another, and ever since the Statute of Edward VI. have continued to be so, as not being esteemed to be within the purview and intent of that Statute or subject to mischiefs thereby intended to be prevented. By reason thereof Petitioners were encouraged to purchase their places and to advance considerable sums for them, and are admitted to them for so long time only as they honestly and faithfully behave themselves. Petitioners are advised that the Bill, from

1696-7. — No. 1126.

the extensiveness of its wording, will debar them from disposing of them as their predecessors have always done, although by age or other indisposition they should be rendered incapable of executing them. Pray to be heard by Counsel against the Bill. *Signed* John Hargrave, Alexr. Dawson, John Cooke, John Stone, James Gibson, Edward Smith, Burdett Jodrell, Wm. Constantine, Thos. Leigh, Wm. Man, Edward Gilbourne, Nich. Wilmot, George Smith, Rob. Aldersey, John Andrewes, Thos. Emes, Nath. Houlton, James Goulton, Jon. Leman, Richard Richardson, Wm. Lightfoot, Godfrey Woodward, Robt. Conaway, Edward Farmiraw, Christopher Berry, Lee Sadleir, John Sandford, Wm. Paige, Sam. Ongley, Edmund Shepherd. [Read this day. L. J., XVI. 104. Counsel heard on the 26th February, *Ib* 105; MS. Min.] (*See* No. 1124).

Annexed:—

(*a*.) 27 Feb. 1696-7.—Petition of the Lord Mayor and Aldermen of the City of London. The Bill greatly concerns the government of the City. Pray for a day to be heard by Counsel touching such matters as they have to offer. *Signed* Goodfellow. [Read this day and rejected. MS. Min.; no entry in L.J.]

(*a*[1].) 26 Feb.—City of London's Proviso:—"Provided always that this Act or anything therein contained shall not extend or be construed to extend to the officers of the City of London or any of them, notwithstanding any matter or thing therein contained to the contrary." *Noted*: Rejected. [Appended to preceding. Read this day and rejected. MS. Min.]

(*b*.) *Undated.*—Petition of several poor orphans of the City of London, on behalf of themselves and others Pray that the Bill may pass without excepting the Lord Mayor and Aldermen, or that Petitioners may lay before the House their grievances by the sales and extravagant allowances (by reason thereof) made to such officers as collect or otherwise manage the revenues given to Petitioners by a late Act for their relief; and that they may have the aid of the House to send for persons, books, and papers, the more plainly to make out the same. *Signed* by Nath. Herne and 40 others. No endorsement.

1127. Feb. 25.—Jones *v.* Jones.—Petition of Hugh Jones, Gent. The House, on 3 April last, ordered Sir Jeffry Shackerley, one of the Respondents, to re-convey the estate or tithes to Petitioner, on the latter paying 80*l.* with interest for the same, and to account with Petitioner for the profits of one moiety of the tithes during the life of Hugh Jones, Senior, Petitioner's late father, and for the profits of the whole since his death. (*See* No. 1010). Petitioner tendered the 80*l.* and requested an account, but Sir Jeffry refused to obey the Order, and has since died, and his son, Peter, under colour of being named one of the executors or trustees, has caused Petitioner and his tenants to be served with declarations in ejectment out of the Court of Exchequer, to recover possession of the premises and tithes, and the Court has made a common rule that Petitioner should enter his appearance to the action in a week or suffer judgment by default. Prays for relief. *Endorsed* as read this day; nothing done in it. MS. Min.; no entry in L. J.

Annexed:—

(*a*) Feb. 25. Order of 3 April 1696, referred to in preceding, and appended thereto. L. J., XV. 727.

1128. Feb. 25. Strode *v.* Byrt.—Petition of Thomas Byrt. Petitioner brought an action of trespass against Edward Strode, Esqre., of Downeside, Somerset, and Richard Thorne, of the same, his yeoman, for

1696-7. — No. 1128. digging coney burrows and laying snares at Mendip, in the same county, where Petitioner and other tenants of the Manor of Shepton Mallet have right of common, and obtained a Judgment, whereupon Mr. Strode brought a Writ of Error in King's Bench, which was decided against him, and Petitioner got 5*s.* damages to manifest his right, and costs taxed at 47*l.* Strode then brought another Writ of Error, returnable to the House of Lords, but obtained an Injunction at the same time, which expressly did not extend to the Writ of Error; but when the Record was transcribed and was ready to be sent in, it was stopped by Mr. Strode's Agent serving Mr. Coleman, the Clerk of the Errors, with the Injunction and a sham Order which took no notice of the Writ of Error having been excepted from it, so that that Mr. Coleman does not know what to do. This is a trick to produce delay, and Petitioner prays Mr. Coleman may be ordered to bring in the transcript. *Signed* Tho: Byrt. [On this Petition being read this day, the *L. C. Baron* was heard. A letter to L. C. Justice of King's Bench to inform himself of this matter and give the House an account, was *ordered*. MS. Min. No further entry. No entry in L. J.]

Annexed:—

(*a*) Order of the Court of Exchequer continuing the Injunction, but not as regards the Writ of Error. [Referred to in preceding, and appended thereto.]

1129. Feb. 26. Milson's Estate Act.—Parchment containing certificates of consent of Joan Long and others to the payment of certain sums to Edward Milson for defraying the charges of obtaining the Act. [Read this day in Committee. Com. Book. The Bill was brought from the Commons on 18 Feb.; Royal Assent 8 March. L. J., XVI. 99, 115. 8 & 9 Will. III. c. 24 in Long Cal.]

1130. Feb. 27. Bishop of Llandaff's Privilege (Iliffe and Drage).—Petition of William [Beaw], Lord Bishop of Llandaff. Wm. Iliffe and Wm. Drage have forcibly entered upon Petitioner's estate and forced his tenants to pay their rents to them, and refuse to give an account to Petitioner or his agents. Prays their Lordships to take the matter into consideration. [Read this day, and Iliffe and Drage ordered to be attached. L. J., XVI. 107; MS. Min.]

Annexed:—

(*a*) 2 Mar. Petition of William Drage.—Petitioner did not know that the Bishop had any title to the estate, and is sorry for his offence, which was done by inadvertency. Prays to be discharged. [Read this day, and Order made for his discharge. L. J., XVI. 109.]

(*b*) 6 March. Petition of William Iliffe.—One Wm. Bradgate owing Petitioner a considerable sum, Petitioner upon an outlawry extended an estate about a year and a half since, which was Bradgate's mother's jointure, and which came to Bradgate by her death, for securing his debt, and, Bradgate being indebted to the Bishop, his Lordship about 5 years since extended the estate Bradgate then had in possession; but Bradgate had no title to the estate which Petitioner extended until the death of his mother about 2 years since, so that, if Petitioner has offended the Bishop, it was done inadvertently, and Petitioner begs pardon of his Lordship and of the House. Prays to be discharged without payment of fees. [Read this day and Order made for his discharge, upon payment of fees. L. J., XVI. 113.]

1696-7. — No. 1131.

1131. March 1. Trotman's Estate Act.—Amended Draft of an Act to vest certain lands, late of Samuel Trotman, Esquire, deceased, in Barking, East Ham, West Ham, and Woolwich, in the Counties of Kent and Essex, in trustees, to be sold, and to settle other lands in lieu thereof. The Amendments in both Houses are of a formal character. [Read 1ª this day; Royal Assent 1 April. L. J., XVI. 107, 142. 9 Will. III. c. 45 in Long Cal.]

Annexed:—

(*a*) 4 March. Consent of Thos. Phillips, Senior, of Ickford, co. Bucks, Gent, to the passing of the Bill. *Dated* 23 Feb. 1696–7. *Attested* by John Wadman and Wm. Greene, and handwriting acknowledged by J. Hungerford and Alexr. Dontin. [This and the other consents were no doubt produced before the Committee, which reported this day, L. J., XVI. 110; but the Com. Book contains no record of the proceedings.]

(*b*) 4 March. Consent of Thos. Phillips, Junior, of Ickford, Gent. *Dated* 24 Feb. 1696–7. *Attested* by Andrew Symes and Wm. Greene.

(*c*) 4 March. Consent of Mary Trotman, wife of Lenthall Trotman, of Bucknell, co. Oxon, Gent. *Dated* 24 Feb. 1696–7. *Attested* by Elizabeth Lepper and Wm. Greene.

(*d*) 4 March. Lords' Amendments to the Bill. [Reported this day. L. J., XVI. 110.]

1132. March 3. Vellum &c. Act.—Petition of the Governor and Company of White Paper makers of England. For the encouragement of the manufacture of making white writing paper, the Clause annexed, (annex (*a*) below) was added by the Commons to the Bill, but the insertion of the words ("or printing"), an amendment made on the third reading, renders the clause ineffectual, and endangers the loss of the manufacture, and will greatly lessen the duty to his Majesty intended by the Bill. Pray to be heard. *Signed* by Paul Docminique, Governor. L. J., XVI. 110. [The Bill was brought from the Commons on 27 Feb. L. J., XVI. 106: On 6 March, before the House went into Committee, Counsel were heard for the white paper makers and for the Stationers, and evidence given that printing paper could only be made with white rags. MS. Min. It was passed without amendment, and received the Royal Assent on 8 March. L. J., XVI. 8 & 9 Will. III. c. 7. Fol. Ed.]

Annexed:—

(*a*) 3 March. Clause, as amended on third reading. C. J., XI. 716. [Referred to in above Petition and appended thereto.]

(*b*) 5 March, 1696–7. Petition of Roger Atlee and others (Stationers). The design of the Clause, without the Amendment against which the Company of white paper makers have petitioned, was the ingrossing all the white rags of England into the hands of the said Company, who have only six mills now at work, but by that Clause would have ruined about seventy mills now making white paper. Pray to be heard. *Signed* Roger Atlee, Henry Hatley, Edward Darell, Oliver Elliston, Geo. Littlebury, Wm. Proctor, Alex. Dyer, Thos. Simpson. L. J., XVI. 111.

1133. March 3. Moyle's Estate Bill [H.L.].—Amended Draft of an Act for vesting part of the Estate of Richard Moyle in trustees, to be sold for payment of Debts. Whereas Richard Moyle, of Trevissick, co. Cornwall, Gent., labours under great difficulties and hardships, by reason of many debts contracted by his father Richard, whereby he is

1696-7. — No. 1133.

become chargeable, by means whereof, and by unwarily parting with his estate, and by too strictly settling those lands on his family which otherwise must have gone, at least in great part, to satisfy those debts, and has since been forced to contract debts of his own, which he cannot pay without the help of an Act of Parliament; and whereas, on his marriage with Martha Clobery, a settlement was made by a lease, dated 7 Oct. 27 Car. II., between himself and his mother, Anne Moyle, of the one part, and Christopher Clobery, of Bradstone, co. Devon, Esq., and Christopher Savery, of Shilston, co. Devon, Esq., of the other part, and a release dated the next day between the same parties of the first and second parts respectively, and John Clobery, son and heir of the said Christopher Clobery, Nicholas Killiow, son and heir of Richard Killiow, of Lanleak, co. Cornwall, Esq., Richard Harris, of St. Issy, and Samuel Hext, the younger, of St. Austell, co. Cornwall, Gent., of the third part, whereby the lands, &c., of Trevissick Pollmorder *alias* Nastevall, and Rosevear *alias* Hallibett, except those parts of the last-named then in lease to one John Paschoe and John Sowdon, were settled on his wife for life for her jointure, and certain other lands, &c., vizt. Hey Heywartha, Heywollas, Tregear Field *alias* Heyfield, Hendra, Rescheidgean *alias* Reschudgean, Rosevanion, Buscavellck *alias* Porthmeare, Reserans *alias* Resorance, all the parts of Rosveare *alias* Hallibett then in lease to John Paschoe and John Sowdon, and St. Austell Church Town, and also all the said jointure land so limited to his wife after her and his own death, were settled on their sons successively and heirs male, failing whom on Christopher Clobery and Christopher Savery and their heirs, in case the said Martha should be with child at his death, until she should be delivered of such child or die, whichever should first happen, nevertheless in trust for such afterborn son, failing whom, in trust for the next in remainder or reversion, and, if such child or children should be a son or sons, then to the use of such after-born son or sons successively and their heirs male, failing whom, to the use of John Clobery, Nicholas Killiow, Richard Harris, and Samuel Hext, their executors, &c., for the term of 200 years, upon trust, in case he, the said Richard Moyle, should die without issue male, to raise portions for his daughters, vizt., 1,000*l.* if but one daughter, 750*l.* apiece if two, and 2,000*l.* to be divided among them equally if more than two, to be paid one year after marriage or full age, and raised by sale of the said lands, and, after payment of such portions and the reasonable costs of the trustees, or in case he should have no daughters by Martha, or they should die unmarried or under age, then the remainder of the term to cease, and Christopher Clobery and Christopher Savery and their heirs to stand seized of the premises to the only use of himself, his heirs and assigns for ever; the Bill, therefore, enacts that all the lands &c., not settled in jointure on Martha, and the reversions and remainders thereof, and all the estate &c. of the said Richard Moyle, Christopher Clobery, Christopher Savery, John Clobery, Nicholas Killiow, Richard Harris and Samuel Hext, their heirs, &c., in the premises shall be settled on Hugh Fortescue, of Filleigh, co. Devon, Esq., and the said John Clobery, their heirs and assigns, upon trust to sell the same for payment of the said Richard Moyle's debts. Saving &c.; and that the surplus shall go to the purposes mentioned in the said deed of settlement. Provided that the Act shall not extend to any leases or estates granted by Richard Moyle under the powers in the said deed. [Read 1a this day. L. J., XVI. 109: Sent to the Commons 27 March. *Ib.* 137. No entry respecting it appears in C. J.]

1696-7. — No. 1134.

Annexed :—

(*a.*) 23 March. Lords' Amendment to the Bill. It is purely verbal. [Made this day in Select Committee. Com. Book.]

1134. March 4. Leigh *v.* Stydolph.—Petition and Appeal of Francis Leigh. Thomas Bostock, being possessed of 500*l.* East India Company's stock, assigned it for valuable considerations to Appellant. After making the assignment Bostock, in order to avoid it, brought a Bill against the Appellant, but a Decree was given in favour of the assignment and the Appellant got the stock. Sigismond Stydolph, having a claim of 2,418*l.* 18*s.* 2*d.* against Bostock's estate, exhibited a Bill against his representatives and against Appellant for the 500*l.* if not well assigned for valuable considerations, with the result that Lord Chancellor Jeffreys ordered the estate to be sold, and the debt to be paid out of the proceeds. Langhorne and his wife (sister of Thomas Bostock), however, brought a Bill of Review in the case between them and Stydolph, and pending this obtained a rehearing of the case, when the Appellant was decreed ex parte to account for the 500*l.* Stydolph then brought an Appeal against the Langhornes and Appellant, and the Decree was reversed as far as he (Stydolph) was concerned, but the Langhornes carried on the ex parte Decree in the name of Stydolph, and have obtained an Order for the Appellant to pay 3,821*l.*, the value of the stock. Appeals against the Decree. *Signed* by Appellant. *Countersigned* Jno. Newdigate, Wm. Fish. *Endorsed* as read this day. L. J., XVI. 111. [The Respondents, on petitioning (annex *b*), were allowed till March 17 to put in their Answer (*ib.* 117), and no further proceedings are recorded till July 23rd 1698, when on the petition of the Respondents the Appeal was dismissed (*ib.* 326). On 28 March 1699 a Petition from the Appellant to revive the Appeal was dismissed after being referred to a Committee. *Ib.* 421, 447.]

Annexed :—

(*a.*) 17 March.—Answer of the Respondents Luke Langhorne and Susannah Langhorne. The Appellant was solicitor to William Bostock and Thomas Bostock and got an assignment from Thomas Bostock, brother of the Respondent Susannah, of the East India stock without any consideration. The Decree and Orders are just and equitable. Hope the Appeal will be dismissed with exemplary costs. *Signed* by Respondents. *Countersigned* P. Crawford. *Endorsed* as brought in this day.

(*b.*) 10 March.—Petition of Luke Langhorne and Susan Langhorne, the Respondents, for an extension of time to put in their Answers. *Signed* by Respondents. *Endorsed* as read this day. [A week was allowed. L. J., XVI., 117.]

1135. March 4. Coward *v.* L. Mohun.—Petition and Appeal of William Coward, Serjeant-at-law, and Phillips, Lady Mohun, his wife, and Elizabeth Mohun, her daughter by Charles, Lord Mohun. In 1674, Charles, Lord Mohun, on his marriage, conveyed his lands in Cornwall and Devon to Arthur, Earl of Anglesey, and others, in trust for the payment of 1,000*l.* a year to him, with remainder to his wife for jointure, contingent profits to be raised by fines &c. to be applied to discharge his debts and those of his father, and the legacies of the latter. Lord Mohun died in 1677, and his father's creditors got possession of a great part of the estate, and his mother, upon whose jointure the timber grew, lived till 1692, so that little money could be raised. Appellant, Serjt. Coward, having become one of the trustees, with Lady Mohun his wife and Elizabeth the daughter, brought an action in Chancery to have the trusts of the marriage settlement carried

1696-7. — No. 1135. out. The Lord Keeper appointed a receiver to take possession of the estate and profits, but no land was to be sold. Appeals against the decree. *Signed* by Appellants. Countersigned R. Fairbraid (?), William Wharton. L. J., XVI. 111. [The Appeal was heard and dismissed on 22 March, when *Sir Bartholomew Shore* and *Mr. Northey* appeared on behalf of Appellant and *Sir Thomas Powys* and *Mr. Dobyns* for Respondents. L. J., XVI. 131.].

Annexed :—

(*a.*) 11 March. Answer of James Mohun, Cordelia Mohun, and Katherine Mohun.—Warwick, Lord Mohun, was seized in fee of all the manors &c. mentioned in the Appeal, and by his will left to his wife and three sisters full power over nearly all his land, &c., during the minority of Charles, Lord Mohun, and, after payment of his debts, gave the rest to his son Charles, on condition that he should pay each of his younger brothers and sisters 2,000*l.* when they came of age, and, in case of failure, gave full power to his wife and sisters to raise the sum of 2,200*l.* a piece for them, making his wife and sisters executrixes. He left six children, of whom one died an infant, and another (Anne) died aged 21, and left her portion to her mother and brother and sisters. The others are of age, but have not received their portions, and very little interest. After the debts, which might have been paid long ago, their portions are the next charge, and ought to precede any interest in the estate which Charles, Lord Mohun, could have had. *Signed* by the Respondents. *Countersigned* Fran. Browne. *Endorsed* as brought in this day.

(*b.*) 16 March. Answer of Sir John Baber, Knight.—Warwick Lord Mohun mortgaged some of his property for 1,000*l.* After Lord Mohun's death his son, wanting to pay off the mortgage, got Respondent to do it, and also to pay off another mortgage, he taking assignments of both mortgages, and Charles, Lord Mohun, conveyed the property to the Respondent and entered into a bond with him. Afterwards Charles, Lord Mohun, made a settlement, taking care that his estate and the rents and profits should be applied first to the payment of his father's debts and his own, before any lands of 1,000*l.* per annum were conveyed or settled on himself or on Lady Mohun. Yet, in spite of this, the Respondent has received no principal or interest, was forced to bring an action against the surviving trustee, and got a decree for 1,100*l.* and 88*l.* for interest, his debt being 3,481*l.* 18*s.* 4*d.*; failing such payment, he was to be paid according to the trust, timber and land being sold for the purpose. Lord Anglesey, the trustee, died, and Coward and his lady have received the 1,188*l.*, and have received rents and raised large sums on the estate, but only paid Respondent a small sum for interest, so that his debt was, on March 3, over 4,600*l.*, and he was forced to bring another action. The Lord Keeper decreed that the several trusts should be executed according to the will and settlement, that a master should take an account of what had been raised and received under the trusts, that the debts of Warwick, Lord Mohun, should be first paid, and the portions to his younger children should be paid next, that the master should examine how much of Lady Mohun's marriage portion had been paid, and that the Respondent's debt was to be paid with interest. This decree was just and equitable. *Signed*

by Respondent. *Countersigned* R. Thornhill. *Endorsed* as brought in this day. 1696-7.

(*c*) 16 March. Several Answer of Philippa Mohun, surviving Executrix of Warwick, Lord Mohun. Similar to annex (*a*). She adds that, being informed that the debts of Warwick, Lord Mohun, had not been paid, and that the rents &c. received by the Appellants since the death of Charles, Lord Mohun, had not been applied by them according to the will made by Warwick, Lord Mohun, she took steps to carry out the powers given her by the will by appointing an agent to receive the rents, &c., who did so until stopped by an Order of the Court of Chancery appointing a Receiver. Is advised that the Appeal is unnecessary and groundless, and hopes it will be dismissed. *Signed* by Respondent. *Countersigned* R. Thornhill. *Endorsed* as brought in this day. No. 1135.

(*d*) 16 March. Joint and several Answer of Charles, Lord Mohun, an infant, by Sir Charles Orby, Bart., his guardian, and of the said Sir Charles Orby.—States the case as it appears in the Appeal and the other Answers. At the death of Charles, L. Mohun, 3,000*l*. due to him and his sister came into his mother's hands, as well as 3,000*l*. of her jointure. The Appellants have ever since received the rents &c. of the estate, and have raised 20,000*l*. on it, without paying the debts, legacies, or incumbrances, so that there is 11,000*l*. due to the younger children of Warwick, L. Mohun, 6,000*l*. to Sir John Baber, and 6,000*l*. to Lady Theophila Harris. If the provisions of the will and settlement had been carried out, the debts &c., might have been paid long ago. The Respondents induced the surviving trustee to enter upon some of the lands and apply the rents according to the will, but the Appellants brought an action in Chancery for Lady Mohun's jointure, with arrears, and for Elizabeth's portion, and to have possession of the estate, and Sir John Baber brought an action for his debt. It was decreed that the will and settlement were to be carried out, and an account taken of what had been raised and received To prevent an account being taken, Sergt. Coward stood upon his privilege as a Member of the House of Commons, and so prevented a just judgment being given. The Appeal is vexatious and should be dismissed. *Signed* by Respondents. *Countersigned* R. Thornhill. *Endorsed* as brought in this day.

1136. March 5. Sheriffs Bill.—Commons' Engrossment of an Act for the ease of Sheriffs in execution of their offices and passing their accounts.

§ i. Whereas the office of Sheriff hath been found by long experience to be very burthensome to the subjects of this realm, partly because the laws made for preventing unnecessary charge in that office and for ease in passing their accounts have not fully had that good effect as was intended, and also for want of ascertaining the fees of officers before whom their accounts are to pass, as well as other officers and persons demanding fees from the said Sheriffs, as also for want of ascertaining the allowances that shall hereafter be made to Sheriffs upon passing their accounts; And whereas Judges of Assize in England and Justices of the Great Sessions in Wales have formerly imposed great fines upon Sheriffs or their deputies for small mistakes or neglects, which have been readily estreated, to the great charge of those that serve in such offices: And whereas Sheriffs have been put to long and unnecessary attendance

1696-7. in the passing their accounts, by reason of all which discouragements those persons who in the several counties are most able and best
No. 1136. qualified do use all their endeavours to avoid the said office, from whence many inconveniences do and may arise to the public welfare of this Kingdom; Be it therefore enacted by the King's Most Excellent Majesty &c., That, from and after the tenth day of May which shall be in the year of our Lord one thousand, six hundred, ninety-seven, if any Sheriff shall incur the penalty of two hundred pounds mentioned in an Act intituled An Act for preventing the unnecessary charge of Sheriffs and for ease in passing their accounts, made in the thirteenth and fourteenth years of King Charles the Second, and made perpetual in the first year of the late King James the Second, that it shall and may be lawful for any person whatsoever to sue for and recover the said penalty, the one moiety to his Majesty, and the other for his own use and behoof, who shall sue for the same, wherein no essoign, protection, or wager of law shall be allowed, nor more than one imparlance. Provided that no action or suit shall be commenced against any person for the said penalty by reason of anything done before the said tenth day of May; and provided such suit be commenced within one year after such offence shall be committed,

§ ii.* [And whereas the oath commonly administered to Sheriffs is very intricate, and all oaths ought to be plain, Be it enacted by the authority aforesaid that, instead of the oath commonly taken by the Sheriff for the due performance of his office, the oath shall be in these words, videlicet:

I, A.B., do swear I will well and truly serve his Majesty King William in the office of High Sheriff in the County of , and do right to all his Majesty's liege people, and that I will not directly nor indirectly, by myself or any other, sell, or set to farm, or receive any money, gratuity, or reward for the office of Under-Sheriff or Deputy or Gaoler or Bailiff, or any other office or place in my disposal as High Sheriff (other than allowed by this Act), but in all things execute my said office to the best of my skill and knowledge, So help me God.]

Which oath the said Sheriff is hereby required to take after his Patent for Sheriff shall be sued forth, and before he shall take upon him the execution of his said office; and it is declared to be the true intent and meaning of this Act that it may be lawful for the Under-Sheriff, for and in behalf of the High-Sheriff, to bear the incident and necessary charges relating only to the management and execution of the said office.

§ iii. And be it further enacted, by the authority aforesaid, that all officers of his Majesty's Exchequer, and all his Majesty's Auditors and Receivers in Wales and all other officers, person, or persons whatsoever, who pretend to or claim any fees, gratuity, or reward whatsoever to be due to him or them from Sheriffs, Under-Sheriffs, or their Deputies in England or Wales for the making out their Patents or Commissions or passing their accounts, or for any matter or thing touching their Shrievalty, do and shall, some time before the twenty-ninth day of September, one thousand, six hundred, ninety-seven, severally and respectively make Lists and Schedules of their respective fees they so claim, and produce the same in open Court before the Lords Commissioners of his Majesty's Treasury for the time being, or Lord High Treasurer of England,† [the Lord Chamberlain,] Chancellor and Barons

* The portion here following in square brackets was superseded by Paper A. in Annex (*c*) below.

† These words were struck out in Committee on 17 March. (Com. Book.)

of the Exchequer, or any four of them for England, and for Wales before the Chancellor of the Exchequer, Chief Justice of Chester, and the rest of the Justices of the Great Sessions, or any four of them, who are hereby required to peruse the same, and to disallow or allow the particulars according as to them shall seem meet and reasonable, and for England to cause a fair table of such fees as they so allow of to be made and hung up in the Exchequer-Chamber publicly every term for all persons to resort to without any fee or gratuity, and for Wales, in like manner, tables to be hung up in all the Shire Halls of the respective counties*. And it is hereby enacted that such fees, so allowed to be taken of and to be paid by the Sheriff, Under-Sheriff, or his Deputy, shall be allowed to them in their discharge in passing their accounts.

§ iv. And it is hereby further enacted, that no greater or other fee, gratuity, present, entertainment, or reward, other than such as shall be allowed in such table, so to be exposed as aforesaid, shall be demanded, required, or accepted by any Judge of Assize or Justice of Great Sessions, or any Officer or person attending them in their respective circuits, or any officer of the Exchequer, or any Auditor or Receiver of Wales or his or their deputy or deputies, or any other officer or person whatsoever, from any Sheriff, Under-Sheriff, or his Deputy, by colour or pretext of such Sheriff his entering into, executing of, or being discharged from, such his office of Shrievalty, or otherwise touching or concerning his said office.

§ v. [And, for ascertaining other allowances to be made to Sheriffs in passing their accounts, Be it further enacted, by the authority aforesaid, that all Sheriffs or their Deputies, at the time of passing their accounts, shall deliver in upon oath to such persons before whom they account bills or duplicates thereof, ingrossed in parchment, of such sums of money as they shall have really and bonâ fide (during the continuance of their Shrievalty) disbursed for his Majesty, his heirs or successors, or expended upon account of their said office, or as may be otherwise due to them in respect of the due execution of their office of Shrievalty as aforesaid, which shall be allowed or disallowed by such of the Barons of his Majesty's Court of Exchequer before whom they account, as to them shall seem just and reasonable; and the duplicates of such Bills, having the particulars thereof marked Allocat. or Non-Allocat., shall be signed by one of the Barons of the Exchequer, and a true copy thereof in writing shall be delivered by such Sheriffs or Under-Sheriffs or their deputies so accounting to their respective succeeding Sheriffs or their Under-Sheriffs or Deputy, who for the future shall not be required or obliged to disburse any such sums of money as they there find have been disallowed in the said account. And it is further enacted that all Sheriffs shall upon their accounts be allowed twelve pence in the pound out of all such sums of money as upon their said accounts they shall tot, as a reward for levying the same, which said allowances, together with the fees paid and to be paid, and disbursements and allowances allowed as aforesaid, shall upon their said accounts be admitted in part of their discharge, and be defalked out of their debits, and be allowed in part of their credit upon their account, and it is hereby further enacted, that no seizures, pardoned, desperate, illeviable, unintelligible debts or sums of money, which four former Sheriffs, Under-Sheriffs, or their Deputies successively have upon their accounts ritchild or sworn they could not

* From here to ("passing their accounts"), Press 4, lines 1 to 6 were postponed in Committee on 22 March. (Com. Book.)

1696-7. — No. 1136.

levy, nor any rents or farms which cannot be explained by setting forth the particulars thereof, or the estates out of which of right they ought to issue, or which have not been totted within the space of twenty years last past, shall from henceforth be put in charge to Sheriffs to account for, unless by Commissioners or other legal course they shall be revived and made answerable; and that all Sheriffs upon their accounts shall be discharged (without further order, plea, petition, or other charge) of all new seizures, fines, amerciaments, issues, and other debts from time to time arising and coming into the Exchequer, if they cannot levy the same, upon such oath thereof to be made by the Under-Sheriffs or his Deputy at the time of their accounting.

§vi. And to the end sheriffs may not be vexed with long attendance and delays in passing their accounts, Be it enacted, by the authority aforesaid, That the Barons of the Exchequer shall every year, in the next term after the Sheriff is superseded or discharged of his office, appoint and prefix a certain and particular time and place when and where each Sheriff of England shall come to account before the proper officers, and in the same term, twenty days or more before such times of account, shall cause the same to be entered in a table, and that table to be hung up in the Exchequer Chamber, that each Sheriff may prepare himself for his account accordingly, at which time and place the respective Sheriffs to whom the same are so prefixed, his Under-Sheriff or Deputy, shall attend and account upon his whole charge upon oath by and before the last day of the second term after such days of prefixion, and shall have a balance of his account, what he shall be found debtor or creditor upon the foot of such account, delivered to him by the Clerk of the Pipe or his deputy, or left at the chamber of the Lord Chief Baron for the time being, or at the Senior Baron's of that Court when there is no Chief Baron, with one of their clerks, which balance of debt or credit the said Clerk of the Pipe or his deputy are required to make and sign and deliver the same so signed within twelve days after; and, if such Sheriff shall be debtor upon such account, he shall some time within the next term following pay the sum wherewith he shall be so charged into the Receipt of the Exchequer, and within ten days after such payment the Clerk of the Pipe shall make and deliver out his Quietus est, which from thenceforth shall be a full discharge to such Sheriff and his heirs against his Majesty, his heirs and successors, touching and concerning all debts and sums of money given him in charge or that he ought to collect during his Shrievalty or before the Quietus est, and that afterwards he shall be no further chargeable for the same; and in case such Sheriff upon the foot of his account shall be found creditor, then such balance, so found due to him, shall be paid him by the Lord High Treasurer or Commissioners of the Treasury for the time being out of the revenue of the Crown some time in the next term following, upon producing such balance of credit so signed by the Clerk of the Pipe or his deputy.]

§vii. And, for preventing injuries which may happen to the subjects by abuse of Sheriffs, Bailiffs of Hundreds, or others who are employed under them to collect any Crown debts, Be it enacted, by the authority aforesaid, That each debtor to his Majesty, his heirs and successors, upon payment of such debts, may require an acquittance for the same under such officer's hand who receives it, paying only four pence for such acquittance; and such Bailiffs or other officers, upon payment of such debts over to the Sheriffs or their Deputies, may require such acquittance from the said Sheriff or his Deputy, who are hereby required to give the same without fee or reward, after which debts paid and acquittances given as aforesaid the Sheriff shall discharge such debtors

of the same against his Majesty, his heirs and successors, by totting them upon their accounts; and, in case he shall return into the Exchequer those for debtors which have paid the same, the person so offending shall forfeit treble damages to the party grieved, and double the sum to his Majesty. And it is hereby further enacted That, if any officer or any for him shall exact, ask, demand, receive, or accept any other or greater fees, gratuity, reward, or for expedition, from any Sheriff or his Deputy than what shall be set down in such table of fees as aforesaid, or shall put in charge to any Sheriff any debts or rents or other sums of money totted or hereby prohibited to be so put in charge, or shall neglect to deliver debits or credits, or to make out and sign Quietus est, or otherwise offend against the true meaning of this present Act, [he] shall forfeit the sum of five hundred pounds for every such offence, whereof one third part shall be to his Majesty, his heirs and successors, and the other two thirds to the party grieved, to be recovered by action of debt in any Court of Record, wherein no essoign, privilege, protection, wager of law, or more than one imparlance shall be allowed. And if any Sheriff shall neglect, by himself, his Under-Sheriff, or Deputy, to come to account or pay his debits into the Receipt of the Exchequer at the respective days prefixed, without a sufficient excuse to be allowed by his Majesty's Court of Exchequer, or shall put in his bill of expenses other or greater sums than he hath really expended, or shall in his accounts ritchil or swear he could not levy any of the debts given him in charge, when he hath or might have levied the same, or shall neglect to tot such debts as he hath received, and be thereof duly convict, he shall forfeit to his Majesty, his heirs and successors, the sum of two hundred pounds over and above all damages that shall be sustained thereby.

§viii. And be it further enacted, by the authority aforesaid, That no person whatsoever shall be or be appointed or nominated to, or be capable of serving, the office of High-Sheriff of any county of England (except the county of Rutland), unless such person, or some other in trust for him, have lands, tenements, or hereditaments of the clear yearly value of one hundred pounds within the same county; and that no person shall be nominated to, or be capable of serving, the office of High Sheriff within twenty years after such person hath already served or executed the said office within the same county for which he shall be so nominated or appointed, nor shall any person be again nominated or appointed to, or be capable of serving the said office within fifteen years after he hath served the said office for any other county. And be it further enacted that no person shall, by himself or any other, or in his own or any other name, officiate or take upon him the place, or be capable of exercising the office, of Deputy or Under-Sheriff, Shire or County Clerk, or either of the said offices, or be any ways, directly or indirectly, concerned therein, or receive any profit by virtue or colour of either of the said offices, or which shall arise by the execution thereof, within seven years after he hath executed the said offices or any of them; and whosoever shall offend therein shall forfeit five hundred pounds, the one moiety to his Majesty and the other moiety to him that shall sue for the same.

§ix. And it is further enacted, by the authority aforesaid, That no fine or fines (other than judicial upon information or indictment), hereafter to be set or imposed by any Judge or Judges of Assize, Nisi Prius, Oyer and Terminer, Gaol delivery, or in the Sessions of the Peace, upon any Sheriff or Sheriffs in England or Wales, during the time of his or their Shrievalty, shall be recorded, estreated, or levied, until the said fine or fines be first affeired, assessed, reduced,

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and agreed to by the Grand Jury attending such Court or Sessions wherein the same is imposed.

§ x. And whereas by long experience it hath been found that the Courts of the Tourne of the Sheriff have been much neglected, and are of no use or advantage to the freeholders of the several counties, and, under colour and pretence that the suitors to such Courts do not perform suit to the said Courts of Tourne, the Sheriff, Under-Sheriff, his and their Bailiffs, Officers, and Agents do levy, collect, and receive divers great sums of money from the freeholders and subjects of this Kingdom, and the said Sheriff, Under-Sheriff, Bailiffs, Officers, and Agents, do very often levy and demand from divers of the subjects of this Kingdom a duty called Smoak Silver, or some other name, which is never answered to his Majesty, but a great grievance to his Majesty's good subjects; Be it therefore further enacted, by the authority aforesaid, That, from and after the five and twentieth day of March, one thousand, six hundred, ninety seven, no Sheriff, Under-Sheriff, Bailiff, County Clerk, or Steward of the Sheriffs' Tournes or County Court, or any other Bailiff or officer whatsoever, shall, under any colour or pretence whatsoever, ask, demand, collect, levy, or receive any sum or sums of money whatsoever from any person or persons within the Kingdom of England, Dominion of Wales, or town of Berwick-upon-Tweed, for his or their not appearing at the Sheriffs' Tournes, or for any fine or amerciament by means or reason thereof, nor for the duty commonly called Smoak Silver or Peter Pence, or any other name, any law, statute, custom, usage, or prescription to the contrary in any wise notwithstanding.

§ xi. Provided that nothing in this Act contained shall in any wise extend unto the Sheriffs of London and Middlesex, and the Sheriffs of Westmoreland, or either of them, or any of the Sheriffs of or belonging to any city and county or town and county within this realm, other than such cities and towns as are counties, as to giving them ease in passing their accounts in the Exchequer; But the same Sheriff and Sheriffs shall or may do as heretofore hath been used or accustomed within the said counties, cities, and towns, anything herein contained to the contrary notwithstanding.

§ xii. And whereas by an Act made in the thirty-fourth and thirty-fifth years of King Henry the Eighth (intituled An Act for certain ordinances in the King's Majesty's Dominion and Principality of Wales) it is (amongst other things) enacted that there shall be Sheriffs in every of the twelve shires in Wales yearly appointed by the King's Majesty, and that the said Sheriffs shall yearly account before such the King's Auditor or Auditors as shall be assigned and appointed by the King's Majesty for his Dominion of Wales; Be it therefore declared and enacted, by the authority aforesaid, That the said Sheriffs shall not be compelled to appear to be opposed in his Majesty's Court of Exchequer, but shall account before his Majesty's said Auditor or Auditors in the Principality of Wales, and not elsewhere, any law, statute, custom, or usage to the contrary notwithstanding; and that the Quietus of the said Sheriff, under the said Auditor's hand or his deputy, as is usual, shall be a sufficient discharge for the said Sheriff in that behalf.

§ xiii. Provided always, and be it declared and enacted, That the respective Auditors of the Counties Palatine of Chester and Lancaster, by virtue of their respective offices, shall and may take, state, and allow the accounts of the Sheriffs of the said respective counties, and of the city and county of the city of Chester, and oppose the said Sheriffs respectively touching the execution of the processes to them respectively directed, called the King's process, in such manner and method as

heretofore hath been used, and that the said respective Sheriffs, upon such their accounts and opposal touching the premises, shall and may have, sue, and obtain their respective Quietus est and discharge, without any accounting or opposal touching the same, by or before the Lord Chief Baron or other Barons of his Majesty's Court of Exchequer, or otherwise howsoever. 1696–7. —. No. 1136.

§ xiv. And whereas there are no certain fees by any law appointed to Sheriffs for the execution of writs of Habere facias possessionem aut seisinam, great extortions have been and are daily committed by Sheriffs and other their Under-Officers; Be it therefore enacted, That it shall not be lawful, from the said tenth day of May now next ensuing, to or for any Sheriff or Under-Sheriff, Bailiff of Franchises or Liberties, or for their or any of their officers, servants, bailiffs, or deputies, nor for any of them, by reason or colour of their or any of their office or offices, to demand, receive, or take of any person or persons whatsoever, directly or indirectly, for the execution of any writ of Habere facias possessionem aut seisinam any more or other consideration, fee, or recompense than is in this Act appointed (which shall be lawful to be demanded, received, and taken), that is to say, twelve pence for every twenty shillings per annum of any manor, messuage, farm, land, or hereditaments whereof possession or seisin shall be given where the same exceeds not the yearly value of fifty pounds, and the sum of sixpence more for every twenty shillings per annum being over and above the yearly value of fifty pounds, and upon pain and penalty that every Sheriff, Bailiff of Franchises or Liberties, or any of their agents, directly or indirectly doing the contrary, shall lose and forfeit to the party grieved his treble damages, with costs of suit, and also the sum of fifty pounds, for every time he or they or any of them shall do the contrary, one moiety thereof to our Sovereign Lord the King, his heirs and successors, and the other moiety thereof, with costs of suit, to the party or parties that shall sue for the same by action of debt, plaint, bill, or information in any of his Majesty's Courts, wherein no essoign, wager of law, or protection shall be allowed. *Parchment Collection.* [Brought from the Commons this day. L. J., XVI. 112. In Committee on 17 March Counsel were heard on the Petition of Officers of the Exchequer (annex *a*), the Judges being present. The ancient oath taken by the Sheriffs was read. The *L. C. Baron* said the greatest part of the oath was in the oldest book of the law, vizt. The Return of Writs.

Clause ii., except the last paragraph, was struck out, and Paper A (annex *c*) substituted, and the Lord Chamberlain struck out of Clause iii. On 22nd March *Sir Thomas Powys* was heard against the King's paying the Undersheriff's charges; the last paragraph of Clause iii. was postponed, and the 1st half of Clause v. left out. On 30 March *Sir Tho. Powys* shows the inconvenience of the 2nd half of Clause v. *Mr. Dod* says the first part of the clause prejudices the King greatly. To admit the Sheriffs to nill all seizures looseth both the King's and subjects' debts. *The L. C. Baron.* This is a strange and dangerous Clause. A late Act of Parliament has made provision in this case. The King's Revenue has been recovered after 14 sheriffs have ritchild it. If 4 years must have been a stinted time of the King's debts he must have lost many thousand pounds he has received. The rest of the Clause and Clause vi. were left out. (Com. Book.) No further proceedings, though messages from the Commons to remind the Lords of the Bill were received on 15 March and 12 April. (L. J., XVI. 123, 149.)]

Annexed:—

(*a.*) 11 March 1696–7.—Petition of the Officers in the Exchequer concerned in passing Sheriffs' Accounts. The Bill contains

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several things that seem very prejudicial to his Majesty's interest, and impracticable in relation to the offices. Pray to be heard before the Bill pass. *Signed* L. Thompson, J. Hastings, N. Boothe, Geo. Blakwell, John Hamond, Cha. Hornby, Jo. Tayleure, Ch. Battely, Wm. Allanson, W. Wrightson, Thos. King, Jo. Tyas, Michael Baker, Peter Frowde, Walter Wallinger, Tho. Cole, Jos. Cranmer, Cha. Milborne, Phil. Tullie, Will. Wroth. *Endorsed* as read this day. L. J., XVI. 120.

(*b.*) 11 March 1696–7.—Order of the House, on preceding Petition, for Petitioners to be heard before the Committee on Wednesday next. *Signed* Math. Johnson, Cler. Parliamentor. L. J., XVI. 120.

(*c.*) 17 March 1696–7. — Amended Clause as follows:—"Be it further enacted That to the Sheriff of every County, for the due performance of his office, the oath following shall be administered vizt. :—

Ye shall swear that well and truly ye shall serve the King's Majesty in the office of the Sheriff of the County of [Cambridge], and do the King's profit in all things that belongeth to you to do by way of your office, as far forth as you can or may. Ye shall truly keep the King's rights and all that belongeth to the Crown. Ye shall not assent to decrease to lessing ne (*sic*) concealment of the King's rights or of his franchises, and, whensoever you shall have knowledge that the King's right or the rights of his Crown (*sic*) been concealed or withdrawn (be it in lands, rents, franchises, or suits, or any other things), ye shall do your true power to make them to be restored to the King again; and, if you may not do it, ye shall certify the King, or some of the Council thereof, such as you hold for certain will say it to the King. Ye shall not respite the King's debts for any gift or favour, where you may raise them without great grievance of the debtors. Ye shall duly and rightfully treat the people of your Sheriffwick, and do right as well to poor as rich in all that belongeth to your office. Ye shall do no wrong to any man for any gift or other behest or promise of good for favour nor State. Ye shall disturb no man's right. Ye shall truly acquit at the Exchequer all those of whom ye shall anything receive of the King's debts. Ye shall nothing take whereby the King may lose, or whereby the right may be letted or disturbed, or the King delayed. Ye shall truly return and truly serve all the King's writs as far forth as shall be to your cunning. Ye shall not have to be your Under-Sheriff of any of the Sheriffs' Clerks of the last year passed. Ye shall take no Bailiff into your service but such as you will answer for. Ye shall make each of your Bailiffs to make such oath as you make yourself, in that [which] belongeth to their occupation. Ye shall receive no writ, by you or any of yours, unsealed, or any sealed under the seal of any Justice save Justices in Oyer, or Justices assigned in the same shire where ye be Sheriff in, or other Justices having power and authority to make any writs unto you by the law of the land, or of the Justices of Newgate. Ye shall make your Bailiffs of true and sufficient men in the County. Ye shall be dwelling in your own proper person within your Bailiwick for the time you shall be in the same office (except you be otherwise licensed by the King). Ye shall not let your Sheriffwick nor any Bailiwick thereof to any man, nor shall you directly nor indirectly, by yourself or

any other, sell or let to farm or receive any money, gratuity, or reward for, the office of Undersheriff or Deputy or gaoler or Bailiff or any other office or place in your disposal as High Sheriff, other than allowed by this Act. Ye shall truly set and return reasonable and due issues of them that be within your Bailiwick after their estate and behaviour, and make your panels yourself of such persons as be most next, most sufficient and not suspect nor procured, as it is ordained by the Statutes; and, over this, in eschewing and restraint of the manslaughters, robberies, and other manifold grievous offences, that be done daily (namely, by such as name themselves soldiers and other vagrants, the which increase in number and multiply, so that the King's subjects may not sure ride, nor go to do such things as they have to do, to their intolerable hurt and hindrance), ye shall truly and effectually, and with all diligence possible to your power, execute the Statutes, as the Statutes of Winchester and vagabonds. All these things ye shall truly observe and keep as God help you, and by the contents of this Book. *Endorsed* Sheriff's Oath. [Inserted in the Bill this day. Com. Book.]

(*d.*) 22 March 1696–7.—Rough draft of some of the proceedings in Committee, vizt., postponing (1) title and preamble, and (2) Clause beginning Pr. 4 line 1 to ("and") in line 6. [*See* Com. Book of 17 and 22 March.]

1137. March 8. Spademan's (Llandinam Rectory) Bill.—Commons' Engrossment of an Act for re-vesting the Sine Cure of Llandinam, in the County of Montgomery, in John Spademan, Clerk. Whereas his late Majesty King Charles the Second in the year one thousand, six hundred, seventy and four, did confer upon John Spademan, Clerk, Master of Arts, the mediety of the Rectory and Church of Llandinam in the County of Montgomery, who became legally vested therein, and the possession thereof ever since hath been held accordingly; but, in regard some doubt hath been conceived whether the said John Spademan, notwithstanding the said mediety is a sinecure, should not have taken the oaths which by the Act of Parliament made in the first year of the reign of his now Majesty and of her late Majesty Queen Mary of blessed memory, intituled An Act for the Abrogating of the Oaths of Supremacy and Allegiance and appointing other Oaths to be taken by persons then having any ecclesiastical dignity, benefice, or promotion before the first of August in the year one thousand, six hundred, eighty and nine; which, by reason of his residence in parts beyond the seas, and his ignorance of the passing of that Act, and not knowing that it was any way incumbent on him to take the said oaths, he did not take the same till after the said first of August, but upon his first arrival in England, which was in the year one thousand, six hundred, ninety and one, he took the same in the open Court of the General Quarter Sessions of the Peace held for the county of Middlesex at Hick's Hall; Be it therefore enacted by the King's Most Excellent Majesty, &c., That the estate, interest, possession, right, and title of the said John Spademan, which he hath or ever had of, in, or unto the said mediety of the Rectory and Church of Llandinam, shall not be avoided, impeached, prejudiced, or determined for or by reason of his the said John Spademan's not taking the said oaths before the said first of August in the year one thousand, six hundred, eighty-nine, but that he, the said John Spademan, shall and may hold and enjoy the said mediety of the said Rectory and Church of Llandinam, with the rights, benefits, and profits thereof as aforesaid, as fully and amply to all intents and purposes as if the said John Spademan had

1696-7. — No. 1137. taken the said oaths before the said first of August in the year one thousand, six hundred, eighty and nine, the said recited Act or anything therein contained to the contrary notwithstanding. *Parchment Collection.* [The Bill was brought from the Commons this day (L. J., XVI. 114.) On 12 March a Petition from the Dean and Chapter of Bangor (*See* No. 1142) against it was read, and, after debate, the Bill was rejected. (*ib.* 121)]

1138. March 8. Milward's Estate Act.—Engrossed copy of an Act for the vesting of certain lands of William Milward, in the County of Hereford, Clerk, in trustees, for payment of Debts. *Signed* Math. Johnson, Cler. Parliamentor. *Parchment Collection.* [The Act received the Royal Assent this day. L. J., XVI. 115. 8 & 9 Will. III. c. 26 in Long Cal.]

1139. March 10. Whitfield *v.* Payler.—Petition and Appeal of Timothy Whitfield and Elizabeth his wife, Charles Ventris and Frances his wife, and Henrietta and Sarah Stoughton, which said Elizabeth, Frances, Henrietta, and Sarah are daughters of Sir Nicholas Stoughton, and sisters and co-heirs of Sir Lawrence Stoughton, Bart., deceased. Sir Lawrence Stoughton, when just of age, married Mary, daughter of John Burnaby, a brewer, who agreed to give him 5,000*l.* with his daughter, to be paid in discharge of incumbrances on Sir Lawrence's estate, and Sir Lawrence agreed to make her a jointure of 500*l.* a year. Three weeks after the marriage, when only 400*l.* of the portion had been paid, Sir Lawrence died of small-pox. Watkinson Payler married the widow, and brought an action against the Appellants and John Burnaby and others for the rest of the 5,000*l.*, and to have the jointure confirmed, and that the claimants to the reversion of the estate might pay 5,000*l.* secured by a lease for 1,000 years of the whole estate to Anthony Burnaby and Joseph Hatton, two servants of John Burnaby, for the use of Lady Stoughton. This lease was never mentioned by Sir Lawrence, nor heard of by his relations, and Appellants brought an action to set it aside, when the Bill was dismissed, but the portion ordered to be paid to take the incumbrances off the estate. It was decreed upon Payler's Bill that the 5,000*l.* should be paid to him by the 1st day of Hilary term; but, a rehearing of the two Causes being obtained, the decree was altered by the Lord Keeper, so that the surplus of the 5,000*l.* portion should be paid to Appellants to disencumber their inheritance. The lease to pay back 5,000*l.* to Lady Stoughton, while at the same time she enjoys 500*l.* a year, appears to have been obtained by surprise and circumvention, and Sir Lawrence could not have understood what he was doing, and how little of his estate would be left for the support of the Appellants. Appeal from the decrees. *Signed* by Appellants. *Countersigned* T. Powys, E. W. Hildeyard. L. J., XVI. 118. [The Appeal was heard and dismissed on 30 March, when *Sir Thomas Powys* and *Mr. Dobyns* were heard for Appellants, and *Sir W. Whitelocke* and *Sir B. Shore* for Respondents. MS. Min. L. J., XVI. 139.]

Annexed :—

(*a.*) 20 March.—Joint and several Answers of Watkinson Payler, Dame Mary his wife, John Burnaby, Anthony Burnaby, and Joseph Hatton. The treaty and articles of marriage and the 1,000 years' lease were made by Sir Lawrence upon long and deliberate advice, and for great and weighty considerations, and not by fraud or circumvention. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents except Anthony

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Burnaby. *Countersigned* Wm. Whitelock. *Endorsed* as brought in this day.

(*b.*) 22 March.—Answer of Anthony Burnaby.—It may be true that he is one of the trustees, but his name was used without his knowledge; he has never transacted anything in the trust nor knows what the deed contains. Prays he may be hence dismissed. *Endorsed* as brought in this day.

(*c.*) 23 March—Petition of Respondents Watkinson Payler and John Burnaby for a short day for the hearing. *Endorsed* as read this day.

(*d.*) Undated.—Petition of the Appellants praying that a day may be appointed for the hearing. *Not signed.*

1140. March 11. Bampfeild *v.* Popham.—Petition of Sir Copplestone Warwick Bampfeild, Bart., and John Bampfeild, Esq., both Infants, by George Horner and Thos. Beare, Esqrs., their next friends, and the said George Horner, Thos. Beare, Joseph Laughton, and Antony Stocker, Esqrs., Executors and Trustees of all the estate of Warwick Bampfeild, Esq., deceased, in trust for the said Infants and for discharging the debts and legacies of the said Warwick Bampfeild and Henry Rogers, deceased. Recites the proceedings on the Appeal of 2 June 1685,* which was dismissed by the House on 1 July 1689, and on Respondent's subsequent Petition of 29 Dec. 1693, ending with the Report of the Committee thereon,† and adds that, pending the Bill of Review in Chancery, Warwick Bampfeild died, having settled his estate on Horner, Beare, Laughton, and Stocker, in trust to pay his debts and legacies, and after to the use of Sir Copplestone Warwick Bampfeild, with remainder to Mr. John Bampfeild. Appellants in 1695 brought a Bill of Revivor, but are advised not to proceed further without leave of the House. Pray their Lordships' directions accordingly. *Signed* by Appellants. *Countersigned* J. Hawles, Thos. Filmer. L. J., XVI. 119. [The Petition was heard on 18 Jan. 1697–8. *The Attorney-General* (for Appellants): The question was upon the former Appeal, whether there was an equivalent or not. We desire to know whether we may not proceed below to controvert the Master's Report by a Bill of Review. This Report was not complained of in the Appeal. *The Solicitor-General* (for Appellants) is heard. The Report of 3 Jan. 1693–4 [is read.] *Mr. Serjeant Wright* (for Respondent): Your Lordships have upon the hearing declared there was an equivalent. *Sir Thomas Powys* (for Respondent) is heard. They read depositions. Counsel withdraw. *Proposed* to hear them whether this Report of the Master was before the House at the last hearing, and whether read or not. *Counsel* called in and told that they should proceed to prove that it was read at the Bar, and they proceeded thereon, and were heard in reply. Counsel withdraw. *Ordered* that the Petition be dismissed, because the matters therein complained of have been already settled by the House. (MS. Min.; L. J., XVI. 197.)]

Annexed:—

(*a*) Papers appended to preceding, vizt.:—

(a^1) 2 June 1685. Copy Order of date on Respondent to answer. *Signed* Math. Johnson, Cler. Parliamentor. *Noted* 10 Dec. 1696. Exd., Hen. Wearre. *See* L.J., XIV. 27.

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* *See* Hist. MSS. Com. 11th Report, App. Part II. No. 448.

† *See* under date 29 Dec. 1693. H.L. MSS. Vol. 1. No. 768.

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(a^2) 1 July 1689. Copy Order and judgment of date, dismissing the Appeal, and affirming the decree. *Signed* as preceding. *Noted* 8 July 1696. Exd. Rich. Longford, Hen. Wearre. *See* L.J., XIV. 261.

(a^3) 29 Dec. 1693. Copy Petition of Respondent of date. *Noted* 27 Nov. 1696. Examined at the Parliament Office, Hen. Wearre.

(a^4) 2 Jan. 1693–4. Order of Date, appointing a Committee to consider of the case. *Signed* as (a^1). *Noted* 10 Dec. 1696. Exd., Hen. Wearre.

(a^5) 3 Jan. 1693–4. Report of date, from Committee, that as there appear to have been no proceedings as yet of the Court of Chancery in this matter, nothing need be done by the House. *Signed* as (a^1). *Noted* 27 Nov. 1696. Exd. at the Parliament Office, Hen. Wearre.

(*b*) 19 March 1696–7. Petition of Respondent for further time to answer. *Endorsed* as read this day. L. J., XVI. 129.

(*c*) 7 April 1697. Answer of Alexander Popham.—Repeats the substance of his Petition of 29 Dec. 1693, (No. 768 in preceding volume). At the hearing of the Appeal, on 1 July 1689, the House, before dismissing the Appeal, allowed the Master's Report to be read, and overruled the objection of Appellants' Counsel on the foot of these proceedings. A decree in Chancery was obtained against Respondent on 22 Nov. 1692 for the payment of 5,000*l.* to his sister Letitia, and in Jan. 1692–3 an Act was passed for the settlement of his estate. The Bill of Review brought by Bampfeild on 18 July 1693 assigned for errors against the Decree the same matter as had been urged at the hearing of the Appeal; and, as to the now Appellants' Bill of Revivor, the Lord Keeper after a full hearing in December last, was pleased to make no Order. This Petition is simply to unravel and set aside the former judgment of the House. Prays that it may be dismissed. *Signed* by Respondent. *Countersigned* W. Whitelocke, Wm. Prece Williams. *Endorsed* as brought in this day.

(*d*) 13 April 1697. Petition of Respondent for further time for hearing. L. J., XVI. 151.

(*e*) 16 Dec. 1697. Petition of Appellants for an early day for hearing, the matter being merely an explanation of their Lordships' former Order in the Cause. *Signed* by Horner and Stocker. L. J., XVI. 181.

1141. March 11. Cooper *v.* E. Derby.—Petition of Thomas Cooper, Gent., and the Right Hon. the Lady Charlotte, his wife. Charlotte Katherine Savage, only child of the late Thomas, V. Colchester, being entitled to a portion of 10,000*l.* chargeable on certain lands of the late Thomas, E. Rivers, in Essex, pursuant to a settlement made by him, by her will, of 19 March 1686, devised to the Petitioner, Lady Charlotte (by the name of her cousin the Lady Charlotte Murray) the sum of 8,000*l.*, and to William George Richard, E. Derby, 3,000*l.*, and other great legacies to her mother and other relations, much more than the 10,000*l.* The said E. Derby, her executor, proved her will; and, being the only surviving trustee in the settlement for raising the said portion of 10,000*l.*, has received about 4,000*l.* out of the rents of the estate chargeable therewith, but refuses to pay the Petitioner Lady Charlotte any part of it, and insists on his privilege, in consequence of which Petitioners cannot maintain themselves and children. Pray for

leave to proceed against the Earl for the said legacy, he being only a trustee in the case. *Endorsed* as follows: "Read 11 March 1696. Agreed E. Derby to have notice to attend to-morrow, 12 March. Ordered a Copy and an Answer, 20 March. The E. Derby declared that he would not insist upon his privilege, either as trustee or legatee or executor in trust." L. J., XVI. 121. (12 March.) See also *ib*, 130. 1696–7. — No. 1141.

1142. March 12. Spademan's (Llandinam Rectory) Bill.—Petition of the Dean and Chapter of Bangor. The Rectory, which the Bill proposes, as Petitioners understand, to revest in John Spademan, in trust for Joseph Hill of Rotterdam, is at present actually vested in Petitioners by Act of Parliament for several pious and charitable uses, and the Bill tends to disinherit Petitioners and defeat the charities for which they are trustees. Pray to be heard against the Bill. *Signed* John Jones, D.D., Dean of Bangor. *Endorsed* as read this day and the Bill rejected. L. J., XVI. 121. See also No. 1137.

1143. March 17. L. Fairfax's Estate Bill.—Commons' Engrossment of an Act to enable Thomas, Lord Fairfax, of the Kingdom of Scotland, to raise monies, charged by Thomas, Lord Colepeper, deceased, upon his Estate. The preamble recites that whereas by Indentures quinquepartite of 4 Oct. 4, Jac. II. between (1) the late Thos., L. Colepeper, Baron of Thoresway, (2) Sir John Trevor, then Master of the Rolls, and Christopher Cratford, of St. Giles-in-the-Fields, Gent., (3) William Pottell, of the Middle Temple, Gent., and William Roberts, of Gray's Inn, Gent., (4.) Samuel Reynolds of St. Giles'-in-the-Fields, Gent., and (5.) Susanna Weldon *alias* Willis, of St. James'-in-the-Fields, Spinster, Charlotte Colepeper, Spinster, and Dame Susanna Englefield, wife of Sir Chas. Englefield, the said L. Colepeper granted to Sir J. Trevor and Cratford (in their actual possession then being by a deed of bargain and sale for one year made by L. Colepeper the previous day and by force of the Statute for transferring of uses into possession) the manor of Forshaw *alias* Foshaw, in the parish of Solyhull *alias* Sylihull, co. Warwick, then or late in the tenure or occupation of Humphrey Jennings, Esq., under the yearly rent of 95*l.* reserved on a lease, made to him on 20 Feb. 1683, for 27 years from Lady Day then next ensuing; also the tithes of the parsonage of Mayfield, in Sussex, thentofore in the tenure or occupation of William Hartredge, Gent., under the yearly rent of 90*l.*, and then or late of Thos. Hooper, Gent., under the yearly rent of 65*l.*; also about 65 acres, called Battle Meads, in the parishes of Bodyham and Ewherst, co. Sussex, thentofore in the tenure or occupation of Edward Hawes, Gent., under the yearly rent of 62*l.* 10*s.*, and then or late of Robert Startuppe and Samuel Chester, or one of them, under the yearly rent of 40*l.* and the keeping of two beasts in the summer time gratis, out of which waterscotts also were to be paid by the landlord for $4\frac{3}{4}$ acres in the Level of Ewherst and 47 acres in Bodyham Level; also the marshes, lands, &c., in the parishes of Lydd and Promehill *alias* Bromehill, in Kent and Sussex, or one of them, containing about 260 acres, part of which, known as Bromehill Salts *alias* the New Jinnings, containing about 200 acres, theretofore belonged to the late L. Colepeper, and the rest was since purchased by his Lordship of Thos. Colepeper, of St. Stephens, Esq. and Sir George Curtes, and which were all then or late in the tenure or occupation of Mr. George Wightwicke, Executor or assignee of his late father Humphrey Wightwicke, who was tenant by lease from L. Colepeper to the said Humphrey Wightwicke, dated 12 Sept. 1682, for 18 years from Michaelmas 1683, at a yearly rent of 47*l.* 16*s.* for the

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60 acres purchased by L. Colepeper during the whole 18 years and 150*l.* for the remaining 200 acres for the first six years, and 140*l.* for the second six years, and 180*l.* for the last six years, of the lease of 18 years, with the keeping of one horse or two bullocks at grass over and above the said rents, and under several covenants; also the marshes, lands, &c., in or near Erith, Plumstead, and Lesnes, in Kent, purchased by L. Colepeper of Philip, V. Strangford, Thos. Colepeper, of St. Stephens, Esq., and Henry Thornhill, Esq., then or late in the tenure or occupation of Cresfield Draper, Esq., under a lease for 31 years from Michaelmas, one thousand, six hundred and eighty, at a yearly rent of 72*l.*, free from all Parliament taxes or other deductions or paymcnts ; also the barn and lands called Coulters' Deane, in Buriton, co. Southampton, containing 120 acres, together with all commons, sheep-pastures, etc., thereto belonging, formerly purchased by L. Colepeper and then or late in the tenure or occupation of the executors, &c. of Hanbury, deceased, to whom the same were leased about 3 years then last past before for 21 years at a yearly rent of 26*l.*, over and above all deductions and reprizes; also the farm and mill, called Parson's Mill, in or near the parishes of Loose, East Fairley, and Maidstone, co. Kent, purchased by L. Colepeper of Dame Mary Englefeild and Robert Cage, Esq., with about 45 acres sometime before in the tenure or occupation of Parsons ; also the manor and lordship of Thoresway, co. Lincoln, with all lands, &c., in or near the parishes of Thoresway, Claxby and Walesby, under the management of Mr. Daniel Wickham, and then or late in the tenure or occupation of several tenants there, under several yearly rents amounting in the whole to about 200*l.*, but charged with the payment of 100*l.* a year to Dame Susanna, wife of Sir Charles Englefield, during her life, under a deed of 20 Feb., 2 Jac. II.; also three parcels, or about 24 acres, of land then or late overflowed with the tide, in or near Wittersham, in the Isle of Oxney, in Kent, purchased by L. Colepeper of the heirs of George Bonham, Clerk, deceased, for which there was paid the yearly rent of 20*l.* 12*s.* 10*d.* by the Expenditor of the Upper Levels for the time being, pursuant to Articles and Decrees of Sewers, and another parcel of land, similarly overflowed, lying near Kent Bridge, in or near Wittersham, in the said Island and County, purchased by L. Colepeper of Sir Thomas Colepeper, of Hollingborne, Knt., for which there was paid the yearly rent of 7*l.* 10*s.* by the said Expenditor; also the messuage and farm called Totnams, in or near the parish of Hollingborne, in Kent, at a place called Eghorne Street, with about 40 acres thereto belonging, lately purchased by L. Colepeper, and then or late in the tenure or occupation of Alexander Colepeper, Gent., under the yearly rent of 45*l.*, during a lease of 21 years, of which about 18 were then in being, and the moiety of a tenement in Hollingborne, with about 24 acres of land thereto belonging, then lately purchased also by L. Colepeper, and then or late in the tenure or occupation of William Spice, under the yearly rent of 12*l.*, together with two other parcels or ten acres, of land at Bradstreet, in the parish of Hollingborne, then lately purchased also by L. Colepeper, one of which was sowed with sanfoin, then or late in the tenure or occupation of the said William Spice, under the yearly rent of 3*l.*, to hold unto Sir John Trevor and Christopher Cratford, their heirs, &c. to the following uses, vizt., to the use of Thomas L. Colepeper and his assigns for life, and after his death, as to the said manor of Forshaw *alias* Foshaw, the tithes of Mayfield, Battle-Meads, the lands in Lydd and Bromehill, in Erith, Lesnes and Plumstead, Coulters' Deane, and Parson's Mill, then or late in the occupation of Joseph Twopenny at the rent of 30*l.*, to the use of Susanna Welldon

alias Willis for life, and after her death the said lands, &c., last named, together with the rest of the estate, to the use of William Pottell and William Roberts, their Executors, &c., for the term of 200 years, without impeachment of waste, upon the trusts therein declared, and, after the expiration or sooner determination of the term, to the use of Katherine, daughter of Thomas, L. Colepeper, for the term of 99 years, with a remainder to her issue and divers other remainders in default thereof, remainder over to L. Colepeper's right heirs; and, as concurring the term of 200 years, it was declared that the same was so limited upon trust that Pottell and Roberts should raise and pay 3,000*l.* to the said Charlotte, Susanna Welldon's daughter, at her age of 21 or marriage with her mother's consent, and out of the profits of the said manor and premises should pay Charlotte for her maintenance and education 120*l.* a year, in equal quarterly payments, after Thomas, L. Colepeper's death. And whereas the said L. Colepeper by his will of 17 Jan. 1688 confirmed the above Indentures, and devised to his natural daughter, the said Charlotte, in reversion after his wife's death, the farm called Redway, part of his manor of Arreton, in the Isle of Wight, then or late in the tenure or occupation of Pitts, widow, and Shute Farm, part of the said manor, in the parish of Briaton, then or late in the tenure or occupation of Jackman, and Compton Grange, in the parish of Freshwater, for herself and her issue, failing which, to his own right heirs for ever. And whereas the said L. Colepeper is since dead, and the said Katherine his daughter is married to Thomas, L. Fairfax, and the said Charlotte is married, with her mother's consent, to John Peshall, of Sugnall, co. Stafford, Esq. And whereas, upon stating accounts between Thos., L. Fairfax, and Peshall, it is agreed that 4,000*l.* is owing to Peshall in right of his wife, which sum L. Fairfax and his wife desire to pay. The Bill, therefore, enacts that, from and after 25 March 1697, all the premises conveyed and limited in the above Indenture shall be vested in Edward Kinaston, of Oatley, co. Salop, Esq., and Thomas Harison, of Copgrave, co. York, Esq., to the following uses, vizt., as to all such parts of the said premises (except the estate limited to Susanna Welldon during her life) conveyed as aforesaid immediately from and after 25 March 1697, and also as to such parts limited to Susanna as aforesaid after the determination of her estate for life therein, to the use of Sir William Saint Quinton, of Harpham, co. York, Bart., and Sir Robert Davers, of Rougham, co. Suffolk, Bart., their executors, &c., for the term of 200 years, without impeachment of waste, upon the trusts hereinafter expressed, and, after the expiration or sooner determination of the term, to the use of the said Katherine, daughter of L. Colepeper and now wife of L. Fairfax, her heirs and assigns for ever; the trust last-mentioned being to raise 4,000*l.* and interest at 6 p. c. from 4 June 1697 until payment of the 4,000*l.*, and pay the same to John Peshall in full discharge of all sums settled on Charlotte by the late L. Colepeper. All the premises devised to Charlotte by L. Colepeper's will, after the death of his wife, are declared to be vested in Charlotte, her heirs and assigns, for ever. Provided that, when the 4,000*l.* and interest shall have been paid, the term of 200 years in the premises shall cease. Saving to Dame Judith Benett, Widow and Executrix of Sir Levinus Benett, late of Babrain, co. Cambridge, Bart., and to Judith, Levina, and Jane, his daughters, all such right as their father had at the time of his death, or which his widow and daughters now have in any of L. Colepeper's lands in the Isle of Wight. Saving to the King &c., and to Lady Margaret, late wife of Thos. L. Colepeper, and to John, now L. Colepeper, and to Susanna Welldon *alias* Willis, and to all lessees and all others (except Pottell and Roberts and Katherine

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1696-7. — No. 1143. and Charlotte and their heirs, and Samuel Reynolds and Dame Susanna Englefield and her heirs) all their rights in the premises. Provided that nothing in the Act contained shall impeach or prejudice Dame Susanna Englefield or her assigns in respect of the yearly rent of 100*l.* secured to her for life by the Indenture quadrupartite of 20 Feb., 2 Jac. II., out of the manor of Thoresway and other lands therein mentioned, by a demise or lease thereof to Christopher Cratford and Charles Haynes for 99 years, if the said Dame Susanna should so long live. *Parchment Collection.* [Brought from the Commons this day (L. J., XVI. 125). On 25 March Lord Colepeper ordered to be heard by himself or counsel before the 2nd Reading (*ib.* 134). On 7 April Counsel heard accordingly. *Sir Thomas Powys:* We hope your Lordships will see cause to reject this Bill. *Mr. Dobyns:* A saving will be ineffectual to us. *Wm. Colepeper* says he has several times waited on the Lord Fairfax to waive his privilege, and my Lord has done the same. *Sir Bartho. Shore:* The question is whether they have offered to show any right the Lord Colepeper has to this estate, and wherein this Bill is prejudicial to that right. We agree to any saving he can desire, and in what words he pleases. *Mr. Filmer* heard also. The debate is adjourned to Monday (12th). On 13 April Counsel were again heard, and the debate on the Second Reading was then adjourned till Saturday next. (MS. Min.) On Friday (16th) the Prorogation took place.]

1144. March 18. L. Fairfax *v.* E. Derby.—Petition of Charles, Lord Fairfax, of Emuli [Elmley], in the Kingdom of Ireland, and Colonel Ralph Widdrington. Petitioners are executors to William, L. Widdrington, deceased, who was sole executor to William Stanley, Esq., who died in April 1691, much indebted, leaving his estate to L. Widdrington to pay his debts and legacies, which estate the E. Derby pretends to claim as his heir-at-law. On a Petition presented by L. Widdrington during his lifetime, their Lordships ordered the Earl to waive his privilege, so that the will might be proved.* L. Widdrington accordingly examined two witnesses to the will, but the third witness was in Flanders in the King's service, and is lately returned; but, before any further proceedings were had, L. Widdrington made his will in 1694, devising the estate to Petitioners to perform the will, and shortly after died. Petitioners have agreed to sell the estate, to pay the debts and legacies, but the purchasers desire to be satisfied that the will was legally executed and proved, which cannot be done without a new examination of the witnesses to the will of Stanley, as also to prove that of L. Widdrington, because Petitioners, being devisees of the latter, cannot revive his proceedings upon the former examinations taken to perpetuate their testimonies, but must make the heir of L. Widdrington a party to their Bill, as well as the Earl. Pray that the Earl may so far waive his privilege that Petitioners may prove both the wills. *Endorsed* as read this day, and leave given to examine witnesses as desired. L. J., XVI. 127.

1145. March 22. E. Scarsdale.—Certificate that Robert, E. Scarsdale took the oaths appointed by 1 W. & M. c. 8 and 30 Car. II. c. 1. *Unsigned. Dated* Parliament Office, Westminster, this day.

1146. March 23. Thompson's Estate Act.—Amended Draft of an Act for the speedy payment of the debts of Sir William Thompson, Knt., Serjeant-at-law, deceased. The Lords' Amendment (Com. Book, 27 March) is merely to read ("help") for ("aid"). No Amendment in the

* *See* Hist. MSS. Com., 13th Rep., App.. No. 459.

Commons. [Read 1ª this day; Royal Assent 16 April. L. J., XVI. 132, 163. 9 W. III. c. 63 in Long Cal.]. 1696–7.

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1147. March 23. Crowle's Estate Act.—Consent of William Kirkby, of Ashslack, co. Lancaster, Esq., to the passing of the Bill. *Dated* 3 Feb. 1696–7. [Read this day in Committee. Com. Book. The Bill was brought from the Commons on 10 March. Royal Assent 1 April. L. J., XVI. 118, 142. 9 W. III. c. 44 in Long Cal.]

Annexed:—

(*a*) 23 March.—Consent of Edward Wilson, of Park-house, co. Lancaster, Esq. *Dated* 29 Jan. 1696–7. [Read this day in Committee. Com. Book].

1148. March 23. Countess of Derby *v.* E. Derby.—Petition of the Right Hon. Dorothea Helena, Countess Dowager of Derby, mother of the Right Hon. William George Richard, Earl of Derby. By virtue of a settlement dated 3 August 1667 executed by the now Earl of Derby and his Lady, the manors of Basenthwait, Whicham, and Selcroft, co. Cumberland; of Beetham and Witherslack-cum-Arnside, co. Westmoreland; of Bolton, Adgerly, Alston Burscough, Skelmersdale, Upholland, with the rectory of Upholland and the tithes of Dalton, and of Bretherton, Rainford, and Ormeskirk-cum-Aughton, Newburgh, and the demesnes of Newpark, co. Lancaster, and of Upton, co. Chester, and Argood Farm, co. Flint, were conveyed to certain trustees, of whom Sir Thomas Doleman alone survives, in trust to pay Petitioner 600*l.* a year in satisfaction of dower. The Earl, being in possession of the said lands, has suffered Petitioner, who has very little else for her subsistence, to be 600*l.* in arrear, and refuses to put the surviving trustee into possession, insisting on his privilege. Petitioner has also several sums due to her from him on bonds, and, being brought to great necessity, must be constrained to seek a remedy at law. Prays that he may be ordered to waive his privilege. *Signed* D. H. Derby. *Endorsed* as read this day. L. J., XVI. 132. [On March 29 the Earl waived his privilege, *ib.* 138.]

Annexed:—

(*a*) 29 March 1697. Answer of the Earl of Derby.—Respondent's father made no settlement on Petitioner, his wife; and, although her pretence of dower does not extend to above 400*l.* a year at the most of such parts of his estate whereof she was dowable, Respondent voluntarily assigned to her 600*l.* a year, and confirmed leases, which are in the possession to her or her assigns, to the value of about 500*l.* a year more, and also conveyed lands to far greater value, namely, those mentioned in the Petition, to trustees, to secure her 600*l.* a year more for her life. Petitioner has for many years enjoyed the leases, and has also received from the tenants or Respondent's bailiffs and receivers the 600*l.* a year for the last twenty years, with the exception of only one year's rent, as is confessed. Respondent never forbad any of his tenants or bailiffs to pay her the said sum, nor had any of them any authority from him to stand upon privilege, but the bailiffs have orders to pay her what is due. Respondent believes that the bonds, entered into without any valuable consideration, and amounting in all to about 500*l.*, have been all paid, the last one demanded being about November 1695. Respondent never refused to put the surviving trustee into possession, and he cannot remember that it was ever demanded of him, nor was there any cause for such demand, since only 600*l.* is pretended to be due for receiving 12,000*l.* Respondent does not insist

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on any privilege, but is ready to pay Petitioner whatever is due upon a fair demand and statement of accounts. *Signed* Derby. *Endorsed* as brought in and read this day. L. J., XVI. 138.

1149. March 24. Countess Dowager of Radnor *v.* Vandebendy.—Petition and Appeal of the Right Hon. Sarah, Countess Dowager of Radnor, Relict of the late Right Hon. Robert Roberts, Esq., who was son and heir apparent of the Right Hon. John, Earl of Radnor, deceased. Petitioner's late husband having an estate of 30,000*l.* on his marriage, and having been seized, during Petitioner's coverture, of an estate in fee tail worth 1,200*l.* a year, and dying without making any settlement or jointure, Petitioner after his death brought her writ of dower to recover her thirds of the estate, to which Abraham Vandebendy, the tenant to that action, pleaded in bar a term for 99 years created by Charles, E. Warwick, for securing the payment of certain annuities out of his whole estate, whereof only the sixth part was limited to Petitioner's husband, judgment being given for Petitioner in dower, with a *cessat executio* until the determination of the term. She brought a bill in Chancery against Vandebendy, the pretended purchaser, for payment of her thirds and for an account, and that the term should be set aside to that extent, as having been created only to secure the annuitants and, after that trust performed, to attend the inheritance, of which Petitioner's estate in dower was part, and also to be relieved against a dormant statute of 1,000*l.* kept on foot to bar Petitioner of her dower. Vandebendy having pleaded the term and statute, the Cause was heard on 20 May, 2 Jac. II., before L. Chancellor Jeffreys. An account having been taken, it was decreed that Petitioner should be relieved, and that, she waiving her judgment at law, Vandebendy should withdraw his plea as to the term, and plead so that Petitioner might proceed to trial as to what land she was dowable of, and that the statute and lease should not be made use of to obstruct her recovery, whereby Petitioner was relieved against the term and incumbrances. Soon after Vandebendy died, without performing the decree, whereupon Petitioner brought a Bill of Revivor against his son and Sir John Rotheram, a pretended purchaser under the father, and such as had the right in law to the statute and lease of 99 years; but the Bill was dismissed by the L. Keeper. Prays that this dismission may be reversed, and Respondents ordered to answer. *Signed* by Appellant; *countersigned* Thos. Brotherton, Ch. Constantine. L. J., XVI. 134. [At the hearing, on 12 April, *Serjt. Rawlinson* and *Sir Thomas Powys* appeared for the Appellant, and on 14 April *Sir Bartholomew Shore* and *Mr. Northey* for Respondents. *Mr. Dod* was also heard for Serjt. Rotheram. (MS. Min.) The Appeal was dismissed (L. J., XVI. 159). An attempt was made in Nov. 1707 to revive it; but, after investigation, the House refused to receive the Appeal (L. J., XVIII. 340, 355)].

Annexed:—

(*a*) 24 March. Order of the Lord Keeper, of 3 March 9 Will. III. (made after two previous Orders of 22 June and 18 November last) dismissing Appellant's Bill. *Signed* Carew Gwydott, Deput. Reg. [Appended to preceding.]

(*b*) 1 April 1698. Answer of John Vanden Bemdy. Respondents' father was an honest and real purchaser, and Respondent has become the same, by virtue of his parents' marriage agreement and a considerable marriage portion and a deed of conveyance, duly executed, thereof. There is no precedent of any such relief as is claimed by Appellant. Prays that the

Appeal may be dismissed with costs. *Signed* by Respondent. *Endorsed* as brought in this day. 1696-7. — No. 1149.

(*c*) 1 April. Answer of Sir John Rotheram, Knt., Serjeant-at-law. Abraham Vanden Bemdy having a good estate in an undivided moiety of a third part of the premises, subject to the estate for life of Appellant and several annuities for lives, Respondent agreed in 1678 to purchase for 4,000*l.* a moiety thereof, and in 1679 had a conveyanee duly executed in trust for him and his heirs, and has sinee enjoyed the profits; and not only several incumbrances, but the term of 99 years, have been assigned for the benefit as well of Abraham's as Respondent's purchases. Respondent was no party to the Cause heard before L. Chaneellor Jeffreys. Prays that the Appeal may be dismissed with costs. *Endorsed* as brought in this day.

1150. Mareh 25. Countess of Westmorland *v.* E. Derby—Petition of Raehel, Countess of Westmorland. Petitioner, who is seized in fee of a fee-farm rent of 101*l.* 15*s.* 11*d.* a year, payable out of the Priory of Rissing in the Isle of Man, the Estate of E. Derby, has requested the Earl to pay the arrears, amounting to nearly 800*l.*, which he has often promised to do, and sent orders to Petitioner for the payment of money and delivery of several head of eattle, whieh, if obeyed, would have before now in a great measure satisfied the same, but, never intending his promises to have effeet, countermanded the orders, so that Petitioner has reaped no benefit thereby, and cannot try her right at law, though she has endeavoured to do so. Prays for relief. *Endorsed* as read this day. L. J. XVI., 135. [The Earl of Derby put in his Answer, and Lady Westmorland her reply. E. Derby answered her reply, and Counsel were ordered to be heard, but the hearing was put off, "the House being informed that there were some proposals of an accommodation of the matters in difference." *Ib.* 138, 139, 142, 144.]

Annexed:—

(*a*) 25 March. Case of the Countess of Westmorland.—Under an Act of Car. II. for the sale of fee-farm rents, John Bence, Esq., Alderman of the City of London, purehased from his then Majesty an annual fee-farm rent of 101*l.* 15*s.* 11*d.* issuing out of the Priory of Rissing, in the Isle of Man, the estate of the E. Derby, and devised it to Raehel, Countess of Westmorland. The arrears then amounted to above 1,000*l.*, whieh Rachel's late husband, Vere, E. Westmorland, besought E. Derby to pay off, but only obtained from him an order to Col. Sanekey and others, the Governors of the Revenue in the Isle of Man, to pay him 203*l.* 11*s.* till the arrears were diseharged. Her husband, however, never received anything, the Earl having by private instructions eountermanded the order. Petitioner, after her husband's death, agreed with E. Derby, after several solicitations, that the growing rent of 101*l.* 15*s.* 11*d.* should be paid by the Governors of the Revenue, and the arrears diseharged by the yearly delivery of 200 head of cattle, to be transported into England for her use, and obtained an order, of 16 August 1696, eommanding the Governors to deliver the cattle aceordingly. But E. Derby forbade the payments of any money for growing rent, and kept the order for the eattle so long in his hands, that, when it was delivered in the Island, there was not left unsold there a sufficient number of cattle to

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answer the same, so that Petitioner was compelled to take 140 instead of 200. The Earl then promised to order the delivery of 260 head of cattle to make good the deficiency for the last year, but has put Petitioner off with an order for 100 head. [Appended to preceding.]

(*b*) 29 March 1697. Answer of the Earl of Derby.—The Petitioner, Lady Westmorland, has a right to a rent of about 100*l.* a year issuing out of the Priory of Rushing, in the Isle of Man, of which some arrears are due, but not nearly to the value of 800*l.* Towards payment of the arrears, the late E. Westmorland agreed with Respondent to receive the same and the growing rent by 200*l.* a year, which Respondent paid him in his lifetime, and after his death made one payment of 200*l.* to Petitioner, who agreed to accept 200 head of cattle yearly. Respondent, on hearing that she wanted 60 head of the cattle for the last year, gave fresh orders for the same, as also for the 200 cattle for this year, and he has lately had a letter from her agent, one David Murray, stating that the 140 cattle sent were sold for 232*l.* for her use, and that the Governor of the Island had agreed that the remaining 60 should be shipped and sent over for her next June, the proper season for transporting them. Since Respondent's last named agreement with Petitioner the growing rent, or most of it, has been paid, and, if there be any arrears, they are well secured and will be paid. Respondent never gave any private orders nor countermanded any of his previous orders about the rent and cattle, as is scandalously suggested, and Petitioner has no reason to complain of anything. *Endorsed* as read this day. L. J., XVI. 138.

(*c*) 30 March 1697. Reply of the Countess of Westmorland to the Answer of E. Derby.—The exact yearly rent in question is 101*l.* 15*s.* 11*d.*, and the arrears now due are fully 800*l.* It is true that the late E. Westmorland agreed to receive payments by 200*l.* a year towards discharging the arrears, then amounting to above 1,000*l.*, but Respondent, E. Derby, never paid a penny to him in pursuance of that agreement. The 200*l.* received by Repliant was in discharge of three hundred and odd pounds since grown due, and not in discharge of any part of the 1,000*l.* arrears. The second agreement was not as stated by Respondent, but that there should be the arrears only paid by the transporting of cattle, and the growing rent by the yearly transmitting 100*l.* in money, and the Respondent gave orders accordingly. Repliant's complaint is not groundless, for, although 140 head of cattle was transported for her benefit, she expected, according to the agreement, an order for 100*l.* in money, and another one for 260 head of cattle, vizt., 200 for the year 1696 and 60 more to supply what was wanting for 1695. Contrary to these expectations, the Earl lately sent an order for only 100 head of cattle, with a declaration of his intention that, if she would accept that order, it was the only order that should stand, or that she might expect any benefit of, which was a breach and countermand of his former orders. Repliant is compelled reluctantly to aver these truths, as her Petition has been called scandalous. Prays that the arrears may be paid off with all convenient speed, and that the growing rents may be effectually secured. *Endorsed* as read this day. L. J., XVI. 139.

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(*d*) 7 April 1697. Further Answer of the Earl of Derby.—Respondent still avers that the late E. Westmorland received in his lifetime divers sums from Respondent on account of rent, and particularly by the hands of Mr. Greenwood, of Lancaster, and afterwards of Mr. Winkeley, of Preston, the agents of the said late Earl. Though Repliant seeks to apply her receiving of 200*l.* to be in her discharge of 300*l.* of a growing rent, yet Respondent intended the same on the general account, and does not conceive it material which way it is applied, considering that the whole must be paid. When Respondent signed the order last year for 200 head of cattle, instead of 200*l.*, which was the former agreement, Repliant had good reason to be better satisfied, since the value of 200 cattle much exceeds 200*l.*, and the arrears will be satisfied much sooner under the second agreement than under the first. Respondent never intended to pay 100*l.* in money besides the 200 head of cattle, and he explained the same to her upon her subsequent enquiry, and it is his misfortune that this second agreement was not reduced to writing beyond that Respondent gave her an order for the 200 cattle, which he is willing to perform. The 60 head of cattle were not sent over at first because they could not at that instant be got, but they were ordered to be ready against the next season, and Respondent gave fresh orders to deliver 200 head of cattle for this year; but, when he found that Repliant mistook the agreement and insisted on having 100*l.* in money as well, he sent her an order for 100 head of cattle instead, and that she might receive the 100*l.* in the Isle of Man, where there was a standing order for paying that sum. Respondent hopes that, if Repliant insists further on her claim, their Lordships will give him time to send into Lancashire and the Isle of Man, where the accounts and most of the persons relating to the matter are. Though Repliant has received, and is to receive, by her own confession, more money than what she or her husband was to have had by the former agreement, yet Respondent is willing, to avoid contention, that she should have the 100*l.* over and above the 200 head of cattle, for that she should never have wanted it, had Respondent conceived it was ever mentioned or intended in the agreement. *Endorsed* as read this day. L. J., XVI. 144.

1151. March 26. Party Guiles Act.—Petition of the Master, Wardens, and Assistants of the Company of Distillers of London, on behalf of themselves and all other free distillers in London, Westminster, and Southwark. The Clause, added in the Commons, giving liberty to all persons to distil spirits from malted corn or cider, will, if passed, in a short time ruin Petitioners' trade, and much lessen the revenue and be injurious to the public. Pray to be heard by Counsel against the Clause. *Signed* Thos. Plesteed, Master, Wm. Mackley, John East, Sam. Shephard, wardens. L. J., XVI. 136. [The Bill was brought from the Commons on 24 March (*ib.* 133). Counsel were heard for the Distillers in C. W. H. on 27 March, but the Bill was reported without amendment and received the Royal Assent on 1 April. MS. Min.; L. J., XVI. 142. 8 & 9 W. III. c. 19, Fol. Ed.]

1152. March 29. Harrington *v.* E. Warrington (Privilege).—Petition of Susannah Harrington, the wife of John Harrington. Petitioner having taken out a process against her husband, in the Consistory Court of the Bishop of London, to answer a cause of separation or divorce

1697. — No. 1151. *a thoro et mensâ* by reason of cruelty and adultery, and for alimony, he refuses to appear, exhibiting a Protection from E. Warrington, as the Earl's solicitor, upon which the Court declined to proceed. Prays that the Protection may be set aside, Petitioner's husband never having lived in the Earl's family, and Petitioner being thus forced to live with an adulterous husband, in evident danger of her life, or to live from him unalimented and perish through want, although she brought him nearly 2,500*l*. *Endorsed* as read this day and rejected, "It appearing that the said John Harrington was a servant to the Earl of Warrington and had been so for some years." L. J., XVI. 138.

1153. March 30. Lustring Company &c. Act.—Petition of William Murray and George Brough, in behalf of themselves and several hundreds of wholesale and retail shopkeepers. The Bill for encouraging the Royal Lustring Company contains a Clause that any person served with a writ or process shall, at the return thereof, or the time of his appearance, give bail to answer the forfeitures and penalties for such offences as he shall be convicted of, or, in default suffer judgment against him. This security is extraordinary, and bail should be accepted as in other cases is provided. Pray to be heard by Counsel. *Endorsed* as read this day. L. J., XVI. 139. [The Bill was brought from the Commons on 24 March. L. J., XVI. 134. In C. W. H. on 31 March *Sir Bartholomew Shore* and *Mr. Northey* were heard for the shopkeepers, and on April 1 an amendment was made leaving out the words "and in default of giving such bail or security judgment shall be given against him, her, or them." M.S. Min. Royal Assent 16 April. L. J., XVI. 162. 8 & 9 W. III. c. 36, Fol. Ed.]

1154. March 30. Booth *v.* E. Warrington and others (Privilege).—Petition of Ceeil Booth. Petitioner, believing that his brother Henry, late E. Warrington, died intestate, was prevailed on by the present Earl to take out Letters of Administration, and permitted John Harrington and John Edmonds to receive a great part of the personal estate, the present Earl, by himself and his agents, taking possession of the rest, all but the sum of 59*l*. 10*s*. and another sum of 50*l*., and three bonds and a note, upon which Petitioner had never received any money, which is all that ever came to Petitioner's hands. Petitioner having joined with the present Earl, at his request, in a Bill of Sale to secure a debt of 3,000*l*. to the late Earl's eldest daughter, Lady Elizabeth Delves, the present Earl not only sent the late Earl's creditors to him, pretending that all the personal estate was in his hands, but endeavoured to get the Letters of Administration revoked in the Prerogative Court of Canterbury, upon suggestion of mal-administration, and, failing there as well as in Chancery, now insists on privilege for himself, as well as Harrington and Edmonds, to defeat certain decrees and judgments at law obtained by Petitioner before the Earl's privilege began, as well as a Bill some time since exhibited for the discovery of a deed, concealed by the present Earl or his agents, whereby a small annuity was secured to Petitioner by an estate settled on trustees by George, Lord Delamere, his father, being all the provision Petitioner had from his father's estate. Prays that the Earl may be ordered to waive his privilege. *Endorsed* as read this day. L. J., XVI. 139. [Lord Warrington's Answer was put in on 7 April, and Booth's replication on 10 April (*ib.* 143, 148); but, though the hearing was fixed for the 14th, and then for the 15th, it did not take place before the prorogation on 16 April].

Annexed:—

(*a.*) 7 April 1697.—Answer of George, Earl of Warrington. Respondent, being about 18 years of age, permitted Petitioner

1697. — No. 1154.

to take out the Letters of Administration for his benefit and during his minority, but not with any intent that he should meddle with the personal estate. Respondent, finding that Petitioner had joined with Sir William Gregory to his prejudice, and threatened to break open his closet in his absence, endeavoured to get the administration discharged. The Bill in Chancery was brought, as agreed on by Counsel for both parties, to indemnify Petitioner, and obtain the direction of the Court as to the disposal of the personal estate. Contrary to this agreement, Petitioner put in an adversary answer, insisting on his right to get the personal estate into his hands, and brought Bills in Chancery against Respondent and his servants, Harrington, Edmonds, and Delahuze, for an account, and actions at law also against the three servants, and has decrees and judgments against them, and Harrington has been his prisoner about two years upon mesne process, whereas he and Edmonds had paid away all they received (the greatest part towards debts and funeral expenses, and the rest by Respondent's order) before any suits were brought against them by Petitioner, and Respondent has always offered to be accountable for the whole. Petitioner also threatened to arrest Delahuze for jewels, which he only carried up to London to Respondent to be sealed up. Respondent never sent any creditors to Petitioner, nor is Petitioner in any danger of suit, as the administration is determined, and Respondent took care to inquire into, and promised to pay, all his father's just debts. Petitioner has already paid above 5,000*l.* himself, besides many hundred pounds more by his servants, towards debts, so that there is not more than 200*l.* due to any person, besides a few debts on bond to persons who, having interest, do not call for their money, and he has adjusted his sisters' demands of the legacies given them by the Duchess of Somerset. As for the complaint about the annuity, Petitioner did not proceed on his Bill of 15 Nov. 1694, and no deed could be found on search being made. Prays their Lordships not to compel him to waive his privilege, the prosecution being malicious and unreasonable. *Signed* by Respondent. *Endorsed* as read this day. L. J., XVI. 143.

(*b.*) 10 April 1697.—Replication of Cecil Booth, Esq., to preceding. The overplus of the personal estate, after payment of debts, was to be for the benefit of Respondent's younger brothers as well as for Respondent himself. It was Repliant's duty and interest to see the debts paid, and secure himself against creditors. He did not for some time endeavour to get out of Respondent's hands such part of the personal estate as he had possessed himself of till he found that his intention seemed to be to apply it towards clearing the debt which lay upon the real estate, and to charge Justice Gregory with 7,000*l.*, which he seemed to think the Justice had permitted his father to receive, in breach of a trust reposed in him by the late Duchess of Somerset, for the benefit of the late Earl's two daughters, Lady Elizabeth and Lady Mary, as also to subject Repliant to a *devastavit* for applying part of the late Earl's personal estate towards securing 3,000*l.* to Lady Elizabeth, while Respondent and his agents were in possession of the effects which should clear the debts of a higher nature. But, before the appearance of such intention in Respondent, Repliant at his desire permitted Edmonds and Harrington, his then servants, to receive part of the late Earl's

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personal estate, but called them to give an account as soon as he perceived that they intended to dispose of it to his damage. Repliant's joining with Sir Wm. Gregory was no further than Respondent then desired, and was but justice to the memory of the late Earl, who had intended to secure to his daughters 7,000*l.* he had received by Sir W. Gregory's permission, and would have thought it a great reproach to him that Sir William should be obliged to make good the same out of his own estate. Repliant's joining with Sir W. Gregory would, moreover, be no prejudice to Respondent, who not only joined with Repliant in what was done, but since his coming of age has promised to perfect what was then begun, and in his answer says he had satisfied his sisters their legacies, which is the very joining with Sir W. Gregory of which he complains. As to Repliant's breaking open the closet, it is true that, on seeing letters from Respondent to one of his sisters containing several threats to her about Repliant's annuity, he said that, if he were as resentful as Respondent, he should break open the closet where the deed of his annuity lay and do himself justice, but he never really intended to do so, nor did anything towards it. Respondent was blamed by the Judge of the Prerogative Court for his attempt to set aside the administration, the attempt being grounded only upon Repliant's endeavouring to pay a just debt owing by the late Earl to his daughter Elizabeth. The meeting of Counsel was procured by Repliant, in hopes of an amicable settlement; but, as the proposals of Counsel on the other side were a vain project, chiefly intended to keep the personal estate from Repliant and prevent him from indemnifying himself against the creditors, nor was any reasonable proposal made for his security accordingly, after nearly ten months forbearance, he resorted to Common Law and Chancery, whereas, if he had not been so forbearing, he might have possessed himself of so much of the personal estate, before the commencement of the Earl's privilege, as might have secured him against the creditors, who may, when they please, charge him with what he had permitted Respondent's servants to receive, nor would their payments to Respondent or his order any way discharge him, and yet no security was ever proffered him for the same. Delahuze, whom Repliant arrested, had sold and printed some loose papers of the late Earl's. Repliant can prove that creditors of the late Earl have made demands upon him, and that some have been sent for that purpose by Respondent; but, even if this were not so, he is liable to pay all the debts of a higher nature than those which are yet discharged, and several bonds and other securities are yet unsatisfied. If the administration is determined, as is alleged, Respondent need not refuse to give him security to indemnify him against the creditors. Respondent has for two years stopped the payment of the small provision made for Repliant by his father, refused to pay his brother the remainder of the money for which he had sold his annuity to the late Earl, endeavoured to deprive his sister of part of her portion, and turned his two brothers for three years together to live on the charity of relations, though provided for by their father. The alleged search for the deed is a pretence; Petitioner concealed for two years his father's will, and, after protesting solemnly that it could not be found, sent notice to Repliant, upon a quarrel with Edmunds, that it had

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been discovered about three weeks after his father's death. As to Respondent's never having waived privilege, he acted in Edmonds' Cause till 18 December last, being the day before Repliant was to move for liberty to take out execution of a judgment at law obtained against Edmonds, and this was seven months after Respondent had privilege. Respondent in his own and Harrington's Cause acted both as Plaintiff and Defendant, and did not insist upon privilege till the latter end of February last, when the Causes should have been reheard upon his own Petition. Respondent could not act otherwise than as a trustee in the administration, having no pretence to any property in the personal estate till the debts were paid. Prays that Respondent may be ordered to waive his privilege. *Signed* by Repliant. *Endorsed* as brought in this day. L. J., XVI. 148.

1155. March 31. Coin (Prevention of Counterfeiting) Act.—Amended Draft of an Act for the better preventing the counterfeiting the current coin of this Kingdom. It forms, as amended, the Act 8 & 9 Will. III. c. 26, Folio Ed., the amendments being as follows :—

§ i. line 8, Fol. Ed. . . . from and after the *fifteenth* day of *May*, one thousand, six hundred, ninety *seven*, no smith, . . .

l. 19 . . . instrument or engine *not of common use in any trade but* contrived [or used] for marking† of money round the edges with letters, grainings, or other marks or figures resembling those on the edges of money coined in his Majesty's Mint, nor any press [which may be used in coining of gold or silver moneys] *for coinage*, nor any cutting engine [used or which may be used] for cutting round blanks *by force of a screw* out of flatted bars of gold [or] silver *or other metal*, nor shall knowingly buy . . .

l. 28 . . . . are hereby adjudged to be guilty of *High Treason*, and, being of the said offences or any of them convicted or attainted, according to the order and course of the laws of this realm, shall suffer *death as in case of High Treason.*

§ ii. l. 2 . . . from and after the said *fifteenth* day of *May* . . .

l. 8 . . . are hereby adjudged to be guilty of *High Treason*, and being of the said offences or any of them convicted or attainted, according to the order and course of the laws of this realm, shall suffer *death as in case of High Treason.*

§ iii. l. 3 . . . . from and after the said *fifteenth* day of *May* . . . .

l. 7 . . . . is hereby adjudged to be *High Treason*, and the offender . . .

l. 9 . . . . shall *suffer death as in case of High Treason.*

§ iv. l. 2 . . . . after the said *fifteenth* day of *May* shall colour . . .

l. 8. . . . are hereby adjudged to be guilty of *High Treason*, and, being convicted or attainted thereof, according to the order and course of the laws of this realm, shall *suffer death as in case of High Treason.*

§ v. l. 3 . . . after the said *fifteenth* day of *May* he hid . . .

l. 14 . . . after the said *fifteenth* day of *May* any counterfeit . . .

§ vi. l. 3 . . . after the said *fifteenth* day of *May* shall blanch . .

† "Making" in the Act.

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l. 5 . . . or shall knowingly *and fraudulently* buy or sell or offer to sale any malleable composition or mixture of metals or minerals which shall be heavier than [copper] *silver*, and look and touch and wear like standard gold [or standard silver], but be manifestly worse

. . .

l. 10 . . . adjudged guilty of *felony*, and, being thereof convicted or attainted, according to the order and course of the laws of this realm, shall *suffer death as in case of felony*.

§ vii. l. 2 . . . offences made treason or [misprision of treason] *felony* by this Act . . .

l. 6 . . . after the said *fifteenth* day of *May* be accused . . .

l. 7 . . . offences made treason or [misprision of treason] *felony* by this Act . . .

* Provided always, and be it further enacted by the authority aforesaid that, if any action, suit, bill, plaint, or information shall be brought or prosecuted against any person or persons whatsoever for what he or they shall do in pursuance or execution of this Act, or of any the authorities, powers, matters, or things therein contained, such person or persons, so sued or prosecuted in any Court whatsoever, shall and may plead the general issue of not guilty, and may give this Act and the special matters in evidence at any trial to be had thereupon; and, if any such plaintiff or prosecutor shall become non-suit, or forbear further prosecution, or suffer a discontinuance, or if a verdict pass against him, the Defendant and Defendants shall have and recover his and their treble costs, for which he and they shall have the like remedy as in any case where costs by the law are given to Defendants.†

[The Bill, which was prepared and brought in by the Judges in pursuance of an Order of the House made on 9 March (L. J., XVI. 116), was read 1ª this day (*ib.* 140). On 9 April in C. W. H. it was amended by filling up the blanks for the date with "1st day of May 1697" (which was altered on report to "15th"), by making offenders guilty of high treason, and by the insertion of Clause A. (MS. Min.) It then went to a Select Committee and the officers of the Mint were ordered to attend (L.J., XVI. 147). On 11 April Mr. Newton gave evidence to the Committee as to the tools used in coining being only proper for that purpose (Com. Book). The Royal Assent was given on 16 April. (L. J., XVI. 162.)]

Annexed:—

(*a*.) 9 April. Draft proviso or clause marked A, being § viii of the Act. The draft originally concluded with the words ("upon which the whole penalties and forfeitures shall be and enure to the use of the King's Majesty"). These words are struck through. [Added this day in C. W. H. MS. Min.]

1156. April 7. Hammond's Estate Act.—Amended Draft of an Act for the enabling the Sale of the Manor of Rowling in Kent, which by mistake was by general words comprised in the marriage settlement of William Hammond, gentleman, contrary to the meaning of the parties. The Lords' Amendments were to insert the names of the trustees. No Amendment in H. C. [Read 1ª this day. Royal Assent 16 April. L. J., XVI. 143, 163. 9 Will. III. c. 65 in Long Cal. See also Com. Book, 13 April.]

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* This proviso is not in the Act.

† Here, at the end of the Bill, it is noted to add Proviso A. (annex (*a*) below), being § viii of the Act.

Annexed :—

(*a.*) 13 April. Affidavit of Sir Robert Marsham, Bart., that the manor of Rowling and the lands in the parish of Goodnestone, late the estate of Gabriel Richards, were not intended to be included in the marriage settlement of William Hammond on his marriage with Elizabeth, the daughter of Mr. John Kingsford. He knows, having made the proposals to Mr. Kingsford during the marriage treaty. The manor and lands were then in mortgage to Mr. Wm. Masemore. *Sworn* on 12 April before Sir Miles Coke. [Produced and read this day before the Select Committee. Com. Book.] 1697. — No. 1156.

1157. April 9. Writ of Summons (L. Berkeley of Stratton).—Writ of Summons to William L. Berkeley of Stretton [Stratton]. *Dated* 6 April 1697. [Sat first in Parliament this day. L. J., XVI. 146.]

1158. April 9. Knight's Divorce Act.—Petition of Mary Watkinson and Thomas Goodinge, junior, praying to be heard against a Bill passed by the Commons to dissolve the marriage of Petitioner Goodinge with Hannah Knight, daughter of Petitioner Watkinson, whereby Hannah is rendered incapable of marrying, until she shall attain the age of fourteen, without the Lord Keeper's consent. The marriage was duly solemnised, with consent of Hannah's mother, the Petitioner Watkinson, who was her proper guardian, and there was a Settlement precedent which provided well for Hannah. *Signed* by both the Petitioners. L. J., XVI. 146. [Read this day, after the First Reading of the Bill, which was brought from the Commons the same day, and Petitioners ordered to be heard the following day.—On 10 April *Mr. Clerke* was heard for Petitioners: We treated with the mother, who was the guardian. *Mr. Dobyns* (for same): The marriage was in church, doors open, and bedded. Two-hours' marriage of an idiot is allowable by our law, though he cannot tell 20. We consent to the child's being in the custody of a Master in Chancery. We hope you will not extend your legislative power to annul this act. *Sir Tho: Powys* (for Mr. Taylor and Mr. Clarkson): These have no interest in the infant. Only uncles and trustees for raising the money for the infant. This is so far from being a marriage that both are at liberty to dissent, and [it] is nothing but an inchoation. *Sir Barth: Shore* heard for the uncles and trustees; also for the Bill. *Mr. Serjeant Goodwin* (*Goodinge*) heard for himself; I knew nothing of this marriage until I heard it from my son. I told my son I would not deal with her, but her friends. As to the oath, it does seemingly reflect on me. I went with the mother to Doctors' Commons. The mother did say about twelve. MS. Min. The Bill was then read 2ª, committed to C. W. H. (E. Bridgewater in the Chair), and reported without amendment. Royal Assent 16 April. L. J., XVI. 148, 163. 9 Will. III. c. 64 in Long Cal.]

1159. April 10. Marriage of Infants Bill.—Amended* Draft of an Act to prevent undue marriages of Infants, and for better securing the guardianship of them. Forasmuch as divers good laws have been made to discourage [maids and women] children who have had left unto them, by their parents, friends, or relations, lands, tenements, or hereditaments, or goods and chattels, or credits, from contracting matrimony with loose, idle or disorderly persons that have little or no estates in lands, tenements, goods, or chattels, and also for the punishment of such loose, idle, or disorderly persons that shall contract matrimony with such [maids or women] children, which have not

* Additions in italics, omissions in square brackets.

1697. — No. 1159. proved sufficient to prevent the mischiefs thereby intended to be remedied, and therefore to avoid all manner of inconveniencies that may hereafter happen upon the like occasions. Be it enacted by, &c., That, from and after *the first day of June, 1697*, if any person shall contract matrimony *with any male child under the age of sixteen years or* with any woman or maiden that shall be under the age of *fourteen years* without the consent of the father or of such person* that by the laws now in force, or by force of this present Act, shall be guardian of such child, such marriage or contract of marriage shall be to all intents and purposes void and of no effect, and the party so marrying or contracting matrimony with such [maid or woman] child, his *or her* counsellor, abettor, aiders† or assisters *to the solemnisation of marriage* shall incur the penalty of *præmunire*. And be it further enacted by the authority aforesaid that, if any mother [who] shall happen to be guardian to her child that has an estate in lands, tenements, goods, or chattels, or is thereunto entitled by the gift or kindness of any friend or relation, shall take any husband after her right of guardianship shall accrue, that then, and from the time of her intermarriage with any such other husband, her guardianship shall cease and be determined as if she were actually dead. Provided nevertheless, and be it enacted by the authority aforesaid, that the Lord Chancellor or Lord Keeper or Commissioner for the custody of the Great Seal for the time being may, upon summoning such [woman] child, and also such friends or relations of *him or* her [upon] *at* such times and in such manner as he or they shall think fit, appoint such mother or any other person to be guardian of such child, *unless the father has otherwise appointed the guardianship*. [Read 1ª and 2ª this day, immediately after the report of Knight's Bill (*see* No. 1158), and considered in C. W. H. (E. Bridgewater in the chair) on the 12th, when the amendments noted in the text above were made. After three amendments had been made progress was reported, and the Committee desired another time might be appointed for them to proceed; but the House went into Committee again at once, and the rest of the Bill was gone through. L. J., XVI. 148; MS. Min. The Bill went down to the Commons, who amended it on Third Reading (C. J., XI. 789), and a debate on the question that the Bill do pass was cut short by the Prorogation (*ib.* 790).]

1160. April 14. D. Richmond's Privilege (Holcomb).—Paper stating that Richard Holcomb, menial servant to D. Richmond, was arrested on 13 April by William Brown (Bailiff), at the suit of John Hyron, a cheesemonger in King Street, St. James's, while about the Duke's business. Brown being unwilling to meddle with him, Hyron said he would bear him harmless, if it cost him 200*l.* On Hierom Boteman, the Duke's Steward, warning Brown not to detain Holcomb at his peril, Brown answered Hyron would bear him harmless. Holcomb is retained a Prisoner at the Bush, over against Cole Yard in Holborn. L. J., XVI. 153. [Boteman this day stated to the House that the Duke paid Holcomb 30*l.* a year wages. On 15th Hyron and Brown denied that they knew he was the Duke's servant. Holcomb was ordered to be discharged. Hyron and Brown were reprimanded, and the latter discharged, paying fees. MS. Min.; L. J., XVI. 161.]

1161. April 14.—Poor Relief Amendment Act.—Clause as follows: —Whereas in many parishes, especially in the cities of London and

* An amendment to substitute "child" for "person" was made and afterwards cancelled.

† The question was put whether the words "aiders or abettors" should stand.

1697. — No. 1161.

Westminster and the weekly bills of mortality, and in other cities, boroughs, corporations, and places in the kingdom of England and dominions of Wales, manifold great evils and abuses do frequently happen and arise by and from select vestries, or pretended select vestries, divers private persons, under the colour and pretence thereof, and without the consent of the greater part of the most able and sufficient inhabitants of such parishes, usurping to themselves the sole power and disposal of the public monies and stock and of the yearly revenues, rates, taxes, incomes, and profits belonging and appertaining to the same parishes, and which were given, granted, raised, and intended, and ought to be applied, for relief of the poor and other charitable public uses in case of the inhabitants of such parishes, such select vestry-men, or pretended select vestry-men, and other persons by them employed, wrongfully and unjustly applying the said monies, stock, revenues, rates, taxes, and profits to their own use, or expending and consuming the same, or the greater part thereof, in extravagant and unnecessary feastings and other eating and drinking, to the great loss and prejudice of such parishes. And whereas the said select vestrymen do take upon them to prepare and make the public rates of the said parishes, which oftentimes are very partial, unequal, and oppressive, and do frequently refuse or omit to give a due and just account to the parishioners of the public monies by them received for the use of the said parishes, and of their payments and disbursements of the same, and, for the sake of their private lucre and gain the said select vestrymen, by indirect methods and practices, impose and continue themselves in the said place and office of vestrymen for divers years together, for remedy whereof and of the like abuses and inconveniences for the future . . . . [The first sheet, paged 1, ends here. Then follow, in a different hand, two more sheets, paged 1 and 2, as follows :] And it is also enacted by the authority aforesaid that, in all cities, boroughs, corporations, parishes and places where select vestries or pretended select vestries have been held, used, or accustomed, it shall and may be lawful to and for every the inhabitants and parishioners that are rated at per annum to and for the poors-rates and taxes for the church and poor of such parishes annually and every year to proceed to the nomination and election of such number and so many of the chief most discreet and able men of each parish for to be vestrymen as hath been accustomed in every parish where there is and hath been select vestries, or so pretended to be, which persons so to be elected as aforesaid, shall be and continue in the place and office of vestrymen in the respective parishes where they shall be so elected for the space of one whole year from the time of their election and no longer, and shall and may during such time act, do, and perform all such lawful act or acts, thing or things, belonging to the said place or office as hath heretofore been lawfully acted or done by former vestrymen for the good and benefit of such parish. And be it also enacted by the authority aforesaid that the parson, vicar, or curate of every such parish, two Sundays at the least before the election, immediately after morning Divine Service, shall give public and due notice to the parishioners and inhabitants of the time and place to meet and choose vestrymen for such parishes as aforesaid; and for the better maintenance of peace and good order in the performance of the same, it shall and may be lawful to and for the parson for the time being, and in his absence for the vicar or curate, to proceed at such election and to take the poll, and judge, of and by the same, who are duly elected vestrymen by the majority of parishioners as aforesaid, and, if any dispute shall arise or happen concerning the choice of any vestryman, then and in such case the person and persons

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pretending to be aggrieved shall and may, within the space of ten days then next, appeal to the patron or patrons of such parish or parishes where such dispute shall happen, who is and are hereby empowered to examine and finally determine the same without any further appeal. And be it further enacted by the authority aforesaid that the parson, vicar, curate, and churchwardens for the time being shall be members of such vestry or vestries, and the parson, or in his absence the vicar or curate, shall be chairman thereof, and proceed therein, and also such parson or vicar in his or their absence shall and may depute or appoint some fit and discreet person in his or their place to act, sit, and proceed in the meetings and assemblies of the said vestrymen. And be it also enacted that all and every person and persons aforesaid who shall at anytime hereafter be elected vestrymen or members of any vestries as aforesaid, and the major part of them, shall and may have full power and authority within one month after such their election to summon and call before them all and every the vestrymen or members of former vestries, churchwardens, overseers of the poor, scavenger and surveyors of the highways of their respective parishes, and such other person and persons who have received and possessed themselves of any parish-money, rents, revenues, estate, or profits whatsoever, and to demand, take, and receive from them and every of them an account of such parish money, rents, estate, revenues, rates, taxes, gifts, gatherings, and all other public monies given and belonging to the several parishes or had and received by them, or any or either of them, and of all affairs, matters, and things belonging unto or concerning the church and poor and the highways of their respective parishes, and to take their respective accounts, and to pass and allow the same, if they shall happen to be just and true; and upon any defect or default therein the said vestrymen to be elected as is aforesaid, or the major part of them, shall or may make complaint thereof to the justices of the peace for the city or county in which such parish or parishes do lie, at the next general or quarter sessions of the peace, who are hereby authorised and empowered forthwith to hear, redress, and determine the same, according to justice and his Majesty's laws in that behalf provided. Provided always that, in all parishes where there are and have been payments made by the parishioners and others for the burial of the dead in the churches, chapels, vaults, or churchyards of their respective churches or chapels, nothing in this Act contained shall be construed to give the parson of the parish (without the consent of the vestry first had and obtained) any power to alter or change the rates of burials of the dead, or the rates of the pew-rolls by reason of any parishioners sitting in any seat of the church or chapel, so as the same be duly paid to the parson for the time being; and, for the more easy recovery of such fees, dues, or payments, it shall and may be lawful to and for the parson for the time being of such parish or parishes, upon refusal of payment thereof after lawful demand to be in that behalf first made, to commence and bring an action or actions of debt for the same in any of his Majesty's courts of law. Provided always that in all and singular the parishes and places aforesaid nothing in this act shall be construed to give the parson or vicar for the time being any power to alter, annul, or make void any deed or grant heretofore legally made or granted by himself or any of his predecessors of any part or parcel of the glebe belonging to the parish church, but such grant or grants legally made and granted by such as had good authority to grant the same shall be valid, according to the tenor and contents thereof, and no otherwise shall the parson for the time being be kept out of the possession of any part or parcel of the glebe than as is aforesaid. *Endorsed* This is a Clause to prevent the poor's being cheated,

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and most humbly offered to be added to the Bill for setting the poor on work.—Select Vestries.—Clause offered 14 April '97. Withdrawn. [The Bill for supplying some defects in the Laws for the Relief of the Poor was brought from the Commons on 29 March. L. J., XVI. 138. In C.W.H. on 14 April, E. Stamford in the chair, the Title and Preamble read and agreed. The enacting Clauses read and agreed to to the end of the Bill. Clause concerning Select Vestries (the Clause above) offered and read. Clause withdrawn. Clause for St. Albans offered, read and agreed to. Bill reported with addition of a Proviso (§viii of Act). MS. Min. The Bill received the Royal Assent on 16 April. L. J., XVI. 162. 8 & 9 Will. III. c. 30. Fol. Ed.]

1162. April 14. Stockbrokers Act.—Petition of sundry Merchants and other Traders in the City of London, on behalf of themselves and many others, praying to be heard by Counsel against the Bill to restrain the number and ill practice of Brokers and Stock-jobbers. Petitioners, by reason of the scarcity of money, have sold their goods for Bank Notes, and were necessitated to make many other bargains and contracts pursuant thereto. There is a Clause in the Bill making void former contracts and agreements, which will tend very much to the prejudice of trade in general, and will destroy the legal right of Petitioners. *Signed*—

James Bignoll.	Andrew Whelpdale.
Edw. Long.	Sam. Dunekly.
James Parratt.	Isaac Gerard.
Nath: Hathed.	Robt. Lancashire.
John Turney.	Phin. Bowles.
Gabriel Glover.	Nathaniel Maidstone.
John Cox.	Peter Manvillam.
James Lamouche.	Tho. Chambers.
Charles Cabr	

[Read this day. L. J., XVI. 159. The Bill was brought from the Commons this day, and received the Royal Assent on 16th. *Ib.* 159, 162. 8 & 9 Will. III., c. 32, Fol. Ed. *Sir Thomas Powys* was heard for Petitioners on 15th April. I am for the Petitioners and the Bill also. The words of the Clause are to retrospect, which I am to speak to. We pray some words that may not extend to tallies and exchequer bills or retrospect in this case. *Mr. Robert Lancashire* (sworn): I have known East India Stock sold at 80 percent., and taken back at six or three months' end. Bank bills have been parted with, with a liberty to redeem them again. *Gabriel Glover* (sworn) says he has many contracts with several people for East India Stock and Bank Stock. He reads a contract with Sir Wm. Seawen. *Dumullen* sworn and heard. *Thom: Chambers* (sworn): I have lent money upon Bank Bills. *Mr. Whiston*, the broker, was heard. The Bill was then read 2a, and committed to C. W. H. forthwith. In Committee, E. Stamford in the chair, the Clause objected to, concerning policies and retrospects, was amended by leaving out, in Skin 6, lines 35, 36, the words ("made and entered into or") after a division. Contents 29, Not Contents 30; Tellers, E. Searbrough, L. Clifford. In Skin 7, line 11, Proviso A (annex *a* below) was added after ("assigns"). The rest of the Bill was agreed to. On report, the *L. C. Justice* was heard, and the House disagreed to the Amendments, after dividing on the first; Contents 25, Not Contents 34; Tellers, L. Wharton, L. Clifford. L. J., XVI. 160; MS. Min.]

Annexed:—

(*a*) 15 April. Clause A, as follows:—Provided that every policy, contract, bargain, or agreement made and entered into before the

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said 1st day of May, contrary to the tenor and purpose aforesaid, concerning any Exchequer Bills or Exchequer Tickets, shall be void and the premium paid back and restored, as if the same had been made and entered into after the said first day of May. [Added this day in C. W. H. and disagreed to on report. MS. Min.]

1163. May 13. Commission.—Commission for proroguing Parliament this day to 17 June next. L. J., XVI. 164. *In extenso.*

1164. July 22. Commission (Speaker of H. L.).—Commission for revoking the one for Sir G. Treby, L. C. Justice of the Common Pleas, to be Speaker. *Dated* 22 July 1697. *Parchment Collection.* L. J., XVI. 166. *In extenso.*

1165. July 22. Commission.—Commission for further proroguing Parliament this day to 26 August next. *Parchment Collection.* L. J., XVI. 166–7. *In extenso.*

1166. Nov. 23. Commission (Speaker of H. L.)—Commission for revoking the one appointing Sir John Holt, C. Justice of the Court of King's Bench, Speaker during the absence of L. Chancellor Somers. *Dated* 22 Nov. 1697. *Parchment Collection.* L. J., XVI. 172. *In extenso.*

1167. Nov. 23. Commission (Speaker of H. L.).—Commission appointing Sir George Treby, knt., C. Justice of the Court of Common Pleas to be Speaker during the absence of L. Chancellor Somers. *Dated* 23 Nov. 1697. *Parchment Collection.* L. J., XVI. 172. *In extenso.*

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